

LIMITED LICENSE LEGAL TECHNICIAN (LLLT) BOARD

NEW PRACTICE AREA COMMITTEE AGENDA
CONSUMER, MONEY AND DEBT WORKGROUP
October 8, 2018

Washington State Bar Association
1325 Fourth Avenue – Suite 600
Seattle, Washington 98101
9:00 a.m. to 12:00 p.m.

1. Call to Order/Introductions
2. Approve Minutes from August 16, 2018
3. Overview of LLLT license (Steve)
4. Review proposed actions and limitations with subject matter experts
 - a. Legal Financial Obligations (LFOs)
 - b. Small Claims
 - c. Student Loans
 - d. Debt Collection Defense and Assistance
 - e. Garnishment
 - f. Identity Theft
 - g. Wage Complaints and Defenses
 - h. Loan Modification & Foreclosure Defense and Assistance
 - i. Protection Orders
 - j. Bankruptcy Awareness and Advice
5. Review FAQ
6. Divide comments

MEETING MATERIALS

1. August 16, 2018 draft minutes
2. Outreach Update
3. Consumer, Money and Debt comments previously reviewed
4. Consumer, Money and Debt comments not previously included in meeting materials
5. Draft Consumer, Money and Debt Law with comments received
6. Draft Consumer, Money and Debt Law
7. Draft FAQ document
8. Chart of substantive comments received



Consumer, Money and Debt Law Outreach

The goal of this communication plan is to seek input from WSBA member and interested parties on the potential proposal for a new LLLT practice area entitled Consumer, Money, and Debt in an efficient yet comprehensive manner by distributing a draft of the proposal and providing a 60-day comment period.

60-day comment period: MAY 15-JULY 16

Date	Communication	Message	Comments
May 7, 2018	Email to Section Leaders	<p><i>Sent at the request of Stephen R. Crossland, Chair, LLLT Board and Renata de Carvalho Garcia, Staff Liaison to the LLLT Board</i></p> <p>Section Leaders,</p> <p>The LLLT Board is working on developing a new LLLT licensed practice area—Consumer, Money, and Debt Law—and is beginning its outreach with you, section leaders, because of your expertise and leadership. There are several ways you can help shape and be involved in the process, and we hope you will be.</p> <p>Attached is a draft outline of the proposed practice area that is under development. The LLLT Board will solicit input from the general legal community—including your section members—from May 15 to July 16. During that time, if you would find it helpful, the LLLT Board would be happy to send a representative to your meeting to speak on the topic, answer questions, and provide additional information.</p> <p>As an Executive Committee, please consider reviewing the draft and being involved in the next steps by:</p> <ul style="list-style-type: none">• Providing feedback as an Executive Committee on the initial draft and subsequent versions,• Forwarding the draft to your section members so they can provide individual feedback,	

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		<ul style="list-style-type: none"> • Sending a representative to meet with the <u>LLLT Board</u>, or requesting that a LLLT Board member attend your meeting, • Attending the <u>LLLT Board meetings</u>, which are open to the public, and/or • If the new practice area is approved by the Washington Supreme Court, assisting the LLLT Board with writing the rule, regulations, and exam for this practice area. <p>For any of the above, please submit comments, questions, or concerns to lllt@wsba.org.</p> <p>As the LLLT Board moves forward with its process and gathers feedback, we will keep all members well informed.</p> <p>The LLLT Board looks forward to hearing from you.</p> <p>Sincerely,</p> <p>Stephen R. Crossland Chair, LLLT Board</p> <p>Renata de Carvalho Garcia Staff Liaison to the LLLT Board</p>	
May 14, 2018- July 17, 2018	"On the Docket" WSBA.org homepage	Read about Consumer, Money, and Debt Law, the proposed new practice area for limited license legal technicians. And email your comments to LLLT@wsba.org .	
May 15, 2018	Email to Members (38,902 members)	The LLLT Board is working on developing a new LLLT licensed practice area— Consumer, Money, and Debt Law —and would like your feedback. A draft outline of the proposed practice area is under development. The LLLT Board is seeking comments through July 16.	

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		<p>There are several ways you can help shape and be involved in the process, and we hope you will be. Please consider reviewing the draft and being involved in the next steps by:</p> <ul style="list-style-type: none"> • Providing feedback on the initial draft and subsequent versions, • Attending the LLLT Board meetings, which are open to the public, and • If the new practice area is approved by the Washington Supreme Court, assisting the LLLT Board with writing the rule, regulations, and exam for this practice area. <p>Please submit comments, questions, or concerns to lllt@wsba.org.</p> <p>The LLLT Board looks forward to hearing from you.</p> <p>Sincerely,</p> <p>Stephen R. Crossland Chair, LLLT Board</p> <p>Renata de Carvalho Garcia WSBA Staff Liaison to the LLLT Board</p>	
May 21, 2018	Twitter	The LLLT Board is working on a new practice area for limited license legal technicians – Consumer, Money, and Debt Law – and would like your feedback by July 16.	
May 21, 2018	Facebook	The LLLT Board is working on a new practice area for limited license legal technicians – Consumer, Money, and Debt Law – and would like your	

Date	Communication	Message	Comments
		feedback by July 16.	
May 24, 2018	Facebook	Consumer, Money, and Debt Law is being considered for the next practice area for limited license legal technicians. The LLLT Board and WSBA would like your feedback by July 16.	
May 25, 2018	Attendance at Meeting	ATJ Board meeting attended by Renata de Carvalho Garcia and Sarah Bove	Questions about the program in general as well as specific questions about the proposed practice area.
May 25, 2018	Take Note	Proposed new LLLT practice area: The LLLT Board is working on a new LLLT practice area—Consumer, Money, and Debt Law—and would like your feedback. Please see the draft outline of the proposed practice area and provide comments to lllt@wsba.org by July 16.	
May 29, 2018	Twitter	Consumer, Money, and Debt Law is being considered for the next practice area for limited license legal technicians. The LLLT Board would like your feedback by July 16.	
June 1, 2018	Facebook	Consumer, Money, and Debt Law is being considered for the next practice area for limited license legal technicians. The LLLT Board and WSBA would like your feedback by July 16.	
June 5, 2018	Twitter	Consumer, Money, and Debt Law is being considered for the next practice area for limited license legal technicians. The LLLT Board would like your feedback by July 16.	
June 8, 2018	Facebook	Consumer, Money, and Debt Law is being considered for the next practice area for limited license legal technicians. The LLLT Board and WSBA would like your feedback by July 16.	
June 12, 2018	Attendance at Meeting	Northwest Consumer law Center meeting attended by Renata de Carvalho Garcia, Steve Crossland, Nancy Ivarinen and Sarah Bove	
June 12, 2018	Twitter	Consumer, Money, and Debt Law is being considered for the next practice area for limited license legal technicians. The LLLT Board would like your feedback by July 16.	
June 13, 2018	Email	Emailed Superior Court Judges Association Hi Susan –	Response: Dear Ms Garcia, The SCJA Board will not be

Date	Communication	Message	Comments
		<p>My name is Renata Garcia and I am the staff liaison to the Limited License Legal Technician (LLLT) Board. I am writing to let you know that the LLLT Board is working on developing a new LLLT license practice area – Consumer, Money, and Debt Law – and would like to seek feedback from Superior Court Judges. A draft outline of the proposed practice area is attached. The LLLT Board is seeking comments through July 16. Please submit comments, questions, or concerns to lll@wsba.org. The LLLT Board is also willing to send a representative to one of your meetings to answer questions related to the potential new practice area or the LLLT license in general. Please let us know if this is of interest.</p> <p>In addition, earlier this year, the LLLT Board submitted suggested amendments to APR 28, the LLLT RPC and the lawyer RPC for consideration by the Supreme Court. These amendments would enhance the scope of the current family law practice area. The Court is seeking comments through September 14. Please see attached order for more information on how to submit comments.</p> <p>Thank you,</p> <p>Renata</p>	<p>meeting before the comment deadline of July 16, so I will not be able to provide you with any formal response to your request. I can say that, since this is a “practice of law” issue, it is quite likely the Board will prefer not to take any position.</p> <p>I will, however, forward your message to the SCJA membership. If any judges wish to comment, they are free to do so.</p> <p>Sincerely, Blaine Gibson, President Superior Court Judges’ Association</p>
June 13, 2018	Email	<p>Emailed District and Municipal Court Judges Association</p> <p>Hi Sondra –</p> <p>My name is Renata Garcia and I am the staff liaison to the Limited License Legal Technician (LLLT) Board. I am writing to let you know that the LLLT Board is working on developing a new LLLT license practice area – Consumer, Money, and Debt Law – and would like to seek feedback from District and Municipal Court Judges. A draft outline of the proposed practice area is attached. The LLLT Board is seeking comments through July 16. Please submit comments, questions, or concerns to lll@wsba.org. The LLLT Board is also willing to send a representative to one of your meetings to answer questions related to the potential new practice area or the LLLT license in general.</p>	

Date	Communication	Message	Comments
		<p>Please let us know if this is of interest.</p> <p>In addition, earlier this year, the LLLT Board submitted suggested amendments to APR 28, the LLLT RPC and the lawyer RPC for consideration by the Supreme Court. These amendments would enhance the scope of the current family law practice area. The Court is seeking comments through September 14. Please see attached order for more information on how to submit comments.</p> <p>Thank you,</p> <p>Renata</p>	
June 15, 2018	Attendance at Meeting	Creditor Debtor Section Executive Committee meeting attended by Jean McElroy and Steve Crossland	At least one person volunteered to be involved in the workgroup.
June 15, 2018	Twitter	The next possible frontier for limited license legal technicians is Consumer, Money, and Debt Law. The LLLT Board and WSBA would like your feedback! Submit yours via email to LLLT@wsba.org by July 16.	
June 19, 2018	Facebook	Consumer, Money, and Debt Law is being considered for the next practice area for limited license legal technicians. The LLLT Board would like your feedback by July 16.	
June 20, 2018	Take Note	Proposed new LLLT practice area: The LLLT Board is working on a new LLLT practice area—Consumer, Money, and Debt Law—and would like your feedback. We’re halfway through the comment period. Please see the draft outline of the proposed practice area and provide comments to lllt@wsba.org by July 16.	
June 22, 2018	Twitter	Consumer, Money, and Debt Law is being considered for the next practice area for limited license legal technicians. The LLLT Board and WSBA would like your feedback by July 16.	
June 26, 2018	Facebook	The next possible frontier for limited license legal technicians is Consumer, Money, and Debt Law. The LLLT Board and WSBA would like your feedback! Submit yours via email to LLLT@wsba.org by July 16th.	
June 27, 2018	Twitter	Consumer, Money, and Debt Law is being considered for the next practice	

Date	Communication	Message	Comments
		area for limited license legal technicians. The LLLT Board would like your feedback by July 16.	
June 29, 2018	Twitter	Consumer, Money, and Debt Law is being considered for the next practice area for limited license legal technicians. The LLLT Board and WSBA would like your feedback by July 16.	
July 3, 2018	Take Note	Proposed new LLLT practice area: The LLLT Board is working on a new LLLT practice area—Consumer, Money, and Debt Law—and would like your feedback. We’re almost at the end of the comment period. Please see the draft outline of the proposed practice area and provide comments to lllt@wsba.org by July 16.	
July 3, 2018	Facebook	Consumer, Money, and Debt Law is being considered for the next practice area for limited license legal technicians. The LLLT Board would like your feedback by July 16.	
July 6, 2018	Facebook	The next possible frontier for limited license legal technicians is Consumer, Money, and Debt Law. The LLLT Board and WSBA would like your feedback! Submit yours via email to lllt@wsba.org by July 16.	
July 9, 2018	Twitter	We want your feedback on the next possible Limited License Legal Technician (LLLT) program. The next area being considered is Consumer, Money, and Debt Law. Submit your feedback via email to lllt@wsba.org by July 16.	
July 9, 2018	Twitter	We want your feedback on the next possible Limited License Legal Technician (LLLT) program. The next area being considered is Consumer, Money, and Debt Law. Submit your feedback via email to lllt@wsba.org by July 16.	
July 12, 2018	Twitter	Consumer, Money, and Debt Law is being considered for the next practice area for limited license legal technicians. The LLLT Board would like your feedback by July 16.	
July 13, 2018	Attendance at Meeting	ATJ Board meeting attended by Renata de Carvalho Garcia and Steve Crossland	
July 14, 2018	Attendance at Meeting	Limited License Legal Technician Quarterly meeting attended by Renata de Carvalho Garcia and Sarah Niegowski	
September 18, 2018	Attendance at Meeting	Washington Collection Agency Board meeting attended by Jean McElroy, Renata de Carvalho Garcia, Sarah Bove and Jennifer Ortega.	

From: [Gary Morean](#)
To: [Limited License Legal Technician](#)
Subject: [Possible Spam] LLLT
Date: Thursday, July 05, 2018 5:13:31 PM
Importance: Low

Dear LLLT Board,

Do **not** expand this monster into any other areas of law. It should never have been created in the first place. Please kill this expensive, ugly beast.

Gary A. Morean
WSBA #12052

Gary A. Morean, *Partner*
Attorney at Law
INGRAM, ZELASKO & GOODWIN, LLP
120 East First Street | Aberdeen, WA 98520
360.533.2865 (phone) | 360.538.1511 (fax)
Email: gmorean@izglaw.com
Website: www.izglaw.com

From: [Matt Purcell](#)
To: [Limited License Legal Technician](#)
Subject: Against expanding the LLLT program
Date: Tuesday, May 29, 2018 10:57:31 AM
Attachments: [image001.png](#)

The program has ZERO data that it has remotely met the original goals under family law. It is asinine to expand at this time and seriously calls into question the sanity of those running the program. The way this is being run is so offensive it's not even funny at this point...

Happy to talk about how to make the program better but no one asks (certainly not anyone from the eastside of the state where all these LLLTs were allegedly going to help low income and rural communities...).

Truly,

MATHEW M. PURCELL
Attorney



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Richland, WA 99352
Phone: (509) 783-7885
Fax: (509) 783-7886

Please be aware that Domestic Court is held Monday morning, Tuesday all day and Wednesday morning each week; my ability to respond to email is limited during those days/times.

Heather Martinez: HM@PurcellFamilyLaw.com
Maria Diaz: MD@PurcellFamilyLaw.com
Mark Von Weber: MV@PurcellFamilyLaw.com

Office Hours: Monday-Thursday from 9:00 a.m. to 5:00 p.m. Friday from 9:00 a.m. to 4:00 p.m.
Closed for lunch from 12:00 p.m. – 1:00 p.m.

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From: [Bonnie Sterken](#)
To: [Limited License Legal Technician](#)
Cc: [Paula Littlewood](#); [Diana Singleton](#); geoff.revelle@FisherBroyles.com; steve@crosslandlaw.net
Subject: ATJ Board Comments for LLLT Board
Date: Monday, July 16, 2018 11:17:51 AM
Attachments: [ATJ Board letter to LLLT Board 7.16.2018.pdf](#)
[image001.png](#)

Good morning,

Attached, please find the ATJ Board's letter in response to the new proposed practice area.

Thank you!



Bonnie Middleton Sterken | Justice Programs Specialist

Washington State Bar Association | 206.727.8293 | bonnies@wsba.org

1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539 | www.wsba.org

Pronouns: She/Her

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Mirya Muñoz-Roach
Geoffrey G. Revelle, Chair
Andrew N. Sachs

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THE ALLIANCE
for Equal Justice

MEMBER

July 16, 2018

Steve Crossland
Limited License Legal Technician Board
1325 4th Ave, #600
Seattle, Washington 98101
Sent by email: LLLT@wsba.org

RE: LLLT Proposed New Practice Area

Dear Steve:

The ATJ Board has reviewed the "Draft for Discussion and Comment: Consumer, Money, and Debt Law Proposed New Practice Areas for Limited License Legal Technicians." We understand that this is just that – a draft proposal and this appears to be a broad outline of a proposal to us where the specifics are still being considered.

We understand that 36 people have graduated from the LLLT program since it began and of those 36, 33 are in practice. We also understand that three LLLTs are practicing in Eastern Washington while the rest practice in Western Washington.

It is our understanding that none of the 33 LLLTs are employed by a civil legal aid provider. (To our understanding one LLLT has a contract with the Chelan-Douglas County Volunteer Attorney Services – how much of her time is involved with that contract is unknown.)

It is also our understanding that the LLLT Board does not know the amount LLLT's are charging for their services. Without that basic information it is difficult to conclude how much of the population would gain access to the justice system if this newest proposal were to be adopted. For purposes of this letter the ATJ Board is assuming that the proposed expansion would provide greater access to the segment of the population that can pay some amount for legal services.

We are aware that your Board is looking for feedback before July 16, 2018, so we will provide some general comments at this point in time.

In order to further access to the justice system, the expansion into the scope of practice that the LLLT Board is recommending should be limited. Your proposal should not allow LLLTs to represent any corporate entity, partnership, or person in connection with the business of debt collection, debt buying, or money lending. Without this restriction your proposal would not expand access to the justice system for those who need it but instead only allow another avenue for those who already have the means to access the justice system.

As an overarching concern, the ATJ Board will want to see how this new proposal would promote access to the justice system. If the overwhelming majority of LLLTs are charging for their services then this proposal will not promote access to the justice system for those who have no ability to pay. It may, however, promote access to the justice system for those who have the ability to pay some amount, i.e., those of moderate means. At this point in time the ATJ Board does not have sufficient information to make that determination.

As I stated throughout this letter our comments are general in nature. The ATJ Board may have concerns about specifics of the proposal as they become clarified.

We look forward to receiving the information that we requested.

Sincerely,

A handwritten signature in black ink, reading "Geoffrey S. Revelle". The signature is written in a cursive, flowing style.

Geoffrey Revelle, Chair
Access to Justice Board

From: [Kylie Purves](#)
To: [Limited License Legal Technician](#)
Subject: Comment on Proposed Consumer, Money, and Debt Law LLLT Practice Area
Date: Tuesday, May 15, 2018 12:39:28 PM

I think there is a weak nexus between the evidence of unmet need and some of the proposed practice areas.

For example, I do not believe these two areas are appropriately under the heading of Consumer, Money, and Debt Law:

Small Claims Proposed Permitted Actions: Assistance preparing the Notice of Small Claim, Certificate of Service, Response to Small Claim, Small Claims Orders, Small Claims Judgment, and counterclaims Preparation for mediation and trial Obtaining and organizing exhibits.

Protection Orders Proposed Actions: Selecting and completing pleadings for Protection Orders for domestic violence, stalking, sexual assault, extreme risk, adult protection, harassment, and no contact orders in criminal cases.

Small claims is broad and could include matters outside of the consumer, bankruptcy, and credit related issues cited in the section entitled Evidence of Unmet Need. The inclusion of protection orders is not supported at all by the evidence provided.

Inclusion of extra practice areas in a call for comments on Consumer, Money, and Debt Law is also potentially misleading because people who have an interest in commenting on something like no contact orders in criminal cases might disregard a call for comments on a seemingly unrelated topic.

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ATTORNEY-CLIENT PRIVILEGED COMMUNICATION

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From: [Ryan Santini](#)
To: [Limited License Legal Technician](#)
Subject: Comment re New Practice Area
Date: Wednesday, June 20, 2018 10:18:56 AM

Hello,

I am writing you today to voice support for the addition of the practice area Consumer, Money, and Debt. When it comes to access to justice, it should come as no surprise that those who are priced out would have need of legal services related to debt. This proposed practice area is of great interest to me personally as someone with a background in working for a local credit union. Everyday I worked with the under-served members of my community; I am thrilled to think I might be able to continue doing this and draw on some of my financial industry knowledge. I am currently studying for my Associates in Paralegal Studies at Whatcom Community College.

Thank you for your time,

--

Ryan Santini
(808) 457-6063
237 W. Kellogg Rd
Bellingham, WA
98226

From: [Edgar Hall](#)
To: [Limited License Legal Technician](#)
Subject: Commentary on LLLT including money, debt, and consumer law
Date: Monday, May 07, 2018 8:33:27 PM

My name is Edgar Hall. My practice, Washington Debt Law, is entirely focused on all three areas to includes resolution of debt issues via settlement, litigation, and bankruptcy. I have practiced in this area for the last ten years as both debtor and creditor attorney. I believe that I am well situated to discuss these issues.

I will break down my analysis by the anticipated scope of services as presented on pages 4-6.

1. Assisting with LFOs & reducing interest on them

- simple motion, well within LLLT ability
- very supportive of all proposed activities

2. Small Claims

- limited amount in controversy, opposing party likely not represented behind the scenes by serious legal rep, fast and efficient forum
- very supportive of all proposed activities

3. Student Loans

- Often times huge sums, up to 35% mark up under the higher education act, requires deep level understanding of accounting and review of accounting over life of loan, understanding of securitization and how loans are originated, stored, sold and transferred necessary, understanding of state law and federal remedies, understanding of bankruptcy, etc
- Absolutely, 100% against all proposed activities. There are no statute of limitations on federal loans generally, large attorney fees on the other side could be racked up by inarticulate litigation, LLLT licensed in WA cannot practice bankruptcy (often a necessary component to successful defense), LLLT would need to be able to give advice on federal statutes and federal law, LLLT would need to be able to argue administrative law before ALJ's potentially to appeal federal garnishments, etc. If poor advice is given regarding consolidation, it can impact access to income based repayment and other programs. Settling without understanding the threat of bankruptcy, hardship discharge, and deeper level accounting and consumer protection errors would be weak. I could go on and on but essentially LLLT's likely could not obtain proper licenses to give the necessary advice to productively assist clients.

4. Debt Collection Defense and Assistance

- I am mixed on this one. Generally there are three ways to handle a debt: settlement, counterclaims, and bankruptcy. LLLT's cannot practice or advise on bankruptcy matters and that threat is a huge part of the defense and necessary leverage proper settlements. FDCPA is federal law, along with FCRA, TCPA, TILA, etc. Can LLLT advise on federal law and the

strategy of the collection industry would be to just remove every case to escape the free help and magnify fees at the same time, relying on attorney fee clauses and fee shifting statutes to force debtors to pay even more for this trouble. Frivolous, unsuccessful, or missed counterclaims would likely be a problem. The only reason I am mixed is purely based on need and some combination of form discovery and help could be useful. Some matters are straightforward enough that some small portion could be helped.

-I would HESITATINGLY say that these activities would be allowed with the reservations below

- a) negotiation of debt
- b) filling out answers but NOT counter claims unless they associate with someone licensed in federal court as the claim will just get removed and additional attorney fees added
- c) reporting statutory violations to regulatory agencies

-Given the very close interaction of debt defense with bankruptcy, it is very hard to consider anyone not familiar with bankruptcy laws as being competent to render debt defense advice on a gestalt level

-I believe allowing LLLT's to file counterclaims will lead to an increase in additional attorney fees and likely against the debtor

If I had an ideal world, there would be some sort of mandatory BK screen, counter claim screen, and either of those being flagged and a referral given to the client. LLLT's can help with basic notices of appearance, limited discovery, perhaps a review of the accounting with proper background/training, and basic negotiation.

5. Garnishment

To short cut, I support everything stated and would only add that a referral to a BK attorney or a screen would be useful and should be mandatory.

6. Identity Theft

I support as drafted

7. Wage Complaints & Defense

Essentially I will reiterate my objections as listed in section 4 above. I do not know much about the employment side of things, but there are state and federal laws to consider and only being able to handle half the book is problematic at best. Likewise, in fee shifting perspective, this is opening up the employee to some pretty large counterclaims that will mandate their bankruptcy should they fail. But if they are not working, at least they qualify.

8. Loan Modification & Foreclosure Defense

I have worked as a creditor attorney on this side of things at a mortgage default servicing firm and as a consumer atty defending against judicial and non-judicial foreclosures.

Loan modification is fine. The bank is going to do a net present value, determine if its more profitable to foreclose or not, and will basically act accordingly. The only problem here is the

LLLT could mistakenly take away standing arguments by shooting for modification when it should be litigated. That can be the difference between a valid defense and/or a free house. The malpractice the LLLT might have in this market could not cover the amount lost. I would recommend requiring a much higher policy as a minimum to practice here.

As far as foreclosure defense, I am absolutely against it. Defense generally (aside from modification) consists of litigation, possible class action, understanding of numerous federal laws in addition to state laws, understanding of securitization, understanding of how mortgage accounting works and loan processing. I cannot begin to describe the harm that I have seen licensed attorneys without foreclosure experience have harmed files, I shudder to think of what someone with limited licensure and experience could do. Keep in mind, there are fee shifting statutes in all of the contracts, deeds of trust, promissory notes, and most consumer protection statutes that are relevant.

Making a distinction between judicial and non-judicial foreclosures seems like a true distinction, it is not. Here is why. To stop a non-judicial sale, you file a TRO and claims and then essentially you have turned it into a judicial FC because you are alleging all the same issues, just with an additional bond required by RCW 61.24. Do you know what they are going to do? Just start everything as a judicial, ramping up costs and not waiving deficiency. This will compel more bankruptcies. What makes the non-judicial nice is the deficiency is waived, if a slew of LLLTs pop onto the market and the defense knows they are not allowed to work judicial cases, what do you think will happen from a game theory perspective? More judicial foreclosures, more fees, fewer waivers of deficiencies, more bankruptcies, and more bad outcomes.

This is not family law where each side bears their own fees unless they are in contempt, violate a parenting plan, or do something to compel that outcome. These are banks which are always represented by experienced firms and in many instances national/multinational white shoe firms.

I support loan mod assistance, I do not support foreclosure defense other than perhaps through the foreclosure mediation program, RCW 61.24.163.

9. Protection Orders

Not sure how this is debt related but I like it as written

10. Bankruptcy awareness and advice

Support as written

ADDITIONAL OBSERVATIONS

If you really want to help with all of these debt issues. Require more precision of process servers. 90% of my clients claim they are not served. White, black, old, young, religious, non-religious, educated, uneducated, etc- the only pattern is consistency of claims of not being served and legitimate surprise and anger. It is so easy for a process server to sewer serve it is beyond ridiculous. Drive by, see the lights on, and say it happened. A statute should be added making statutory punishments for servers and process serving companies for

fibbing about service as well as higher bonds or insurance.

I actually advise my clients to install drop cams and in several instances the process server can be seen tossing the papers at the door or nothing at all. I do so many motions to vacate it makes me dizzy. A constant stream of false service. I had one recently claim to serve someone at a youth hostel they had not been to in over 10 years because likely it came up on the skip trace at some point.

Further, we need more protective garnishment laws. We need less than 25% of wages to be garnished and more exemptions. Throwing gobs of LLLT's is not the solution, the solution is systemic protections and better process. Imagine how many fewer attorneys and LLLT's would be necessary if only 10% of your income were taken, inline with many other states.

We should reintroduce the old fraud provision of the deed of trust act instead of this victim blaming RCW 61.24.127 that we have instead.

We can require more in the initial complaint than some vague statement that money is owed two or three paragraphs long. Most of my clients actually think its a scam when combined with no case number its so vague. We can make stronger case law that sets judgment interest as the measure rather than hit and miss case law that allows a higher contract rate without necessary TILA disclosures. We can make stronger prove up that service was made.

In any case, this is a topic near and dear to my heart and I would be happy to give more input upon request. I hope this assists.

-Edgar Hall

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From: [Paula Plumer](#)
To: [Limited License Legal Technician](#)
Subject: Comments - new practice area
Date: Tuesday, July 03, 2018 10:38:25 AM

I don't think this expansion is useful and I disagree with watering down the law license to add this or the other practice areas.

/paula plumer

From: [Minh Tran](#)
To: [Limited License Legal Technician](#)
Subject: Comments on "Consumer, Money and Debt Law"
Date: Tuesday, May 15, 2018 3:58:58 PM

Hello,

I have been practicing since 2009. When I started practicing, my focus was on consumer bankruptcy law (Ch 7 and Ch 13). I worked at one of those firms that filed thousands of cases per year. We often charged around \$800-1,200 attorney's fee to file a simple case. I believe the going rate still hasn't changed. What was mind boggling to me back then, and now, is that some people will pay \$500 to an unlicensed bankruptcy document preparer to draft their *pro se* bankruptcy petition. Sure, the cost savings is huge for someone who is completely out of cash, but most of my Ch 7 clients were all in the same boat. We found a way to make it work. After leaving the firm, I started my own practice where I expanded my practice to alternative means of debt resolution--which sometimes include litigation. I have litigated against insurance companies on subrogation claims, against big banks for wrongful foreclosure tactics, and I have also negotiated settlements with creditors and then pursued contribution claims against ex-spouses. I don't find what I do in my practice as "simple", and I wouldn't trust any of my paralegals to advise clients or work on cases without my supervision (for the sake of the client). I find it troubling that the workgroup would trust LLLTs with this role.

I read over the proposed practice area and for the most part, I think the proposal creates a situation where some desperate debtors will end up being more harmed than helped due to advice from untrained "litigators". It should be noted that debt collection is a very broad area, and it could involve other areas such a debtor being sued for an automobile subrogation claim, car accident without insurance, breach of lease agreement, a breach of credit card contract, or even for a tortious action. These are all ordinary lawsuits where the end results is a judgment and garnishment if the defendant loses. To simplify it down to simply a debt collection matter ignores all the complexities of litigation.

The proposal goes beyond simply helping debtors understand their rights and completing forms; it would allow LLLT to draft motions, directly negotiate with opposing parties, coming up with counter claims and affirmative defenses, "accompanying and assisting in court", and advising on bankruptcy matters. All of these actions require both experience and knowledge in litigation strategies. And what's the worst thing that can happen to a desperate debtor who was sold on using a LLLT due to cost savings? Well, the debtor could lose his/her home, waive a statute of limitations defense or other waivable defenses, or be liable for massive amount of attorney's fee due to fee shifting clause in a contract.

I also want to remind the workgroup of *United States v. Tally*, Western District of Washington CR18-0082-RJB, where a lady ran a business called "Driving Dirty" to help people get their drivers license back. One thing she did was she assisted folks in filing frivolous bankruptcy petitions *pro se* to get their license back. The U.S. Trustee got an injunction against her and eventually she was prosecuted for a felony for lying at a 2004 examination (where she was asked if she ever advised people to file bankruptcy). Although her intentions were good, helping folks who can't afford attorneys get relief, her advice and strategy harmed creditors and wasted public resources. She obviously did not have all the tools to fulfill her goal with her limited knowledge.

While I think LLLT can provide valuable service to family law practice, where the court has developed forms and advice for filers, "debt collection" is too broad of an area. A simple motion to vacate a default judgment so that a summary judgment can later be entered could mean additional attorney's fee assessed against the debtor. Defending and prosecuting "debt collection" requires some litigation experience because every case requires strategy.

While some debtors may benefit from having LLLTs in this area, the risk to others is not worth it. I hope that the workgroup will reconsider LLLT's role in consumer, money, and debt law.

--

MINH T. TRAN

Attorney | Admitted to practice law in Washington and Oregon

Arrow Law Group, PLLC | 12826 SE 40th Ln, Ste A11 · Bellevue, WA 98006 | Ph. [\(425\) 531-7946](tel:4255317946)

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From: vlaparker@aol.com
To: [Limited License Legal Technician](#)
Subject: comments
Date: Tuesday, May 15, 2018 2:04:35 PM

Dear Steve,

I think a true analysis of this "program" needs to be performed BEFORE expansion. It needs to be analyzed in terms of whether or not it is meeting the original purpose and evaluation of the unforeseen consequences.

No one evaluated the actual billings of an attorney throughout the state in the areas "served" before implementing this. Has anyone checked the billings of these fake attorneys? Probably not.

Has anyone checked the numbers of these non-attorneys who have violated the rules and the numbers who epart from their practice?

There are so many questions and NO answers.

Call this what it is -- another "feel good" program -- not a solution.

As you look to expand, consider the reality of the need to go beyond approved forms. Review the problems associated with LPO involved in real estate. I have had to correct many problems created by LPOs.

As an attorney who works with Wills and Probates, I can tell you that there is no such thing as a simple Will or Probate. Not only that but the broadly touted living trusts in which an attorney was a front man for a business in which trusts were churned out by non-attorneys using forms for all sorts of situations. One huge problem was the conflict created as the bits and pieces were selected.

I hate that attorneys are being dismissed by the claim that a person with a little training can adequately do out jobs. The ones who suffer are the clients. This is truly shameful.

I know this will probably circular file but I speak again because someone MUST voice the truth.

Thank you,

Vicki Lee Anne Parker,
Attorney at Law

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PARKER by telephone at 360-491-2757 to arrange for disposition of the original documents.

From: antimony9@gmail.com on behalf of [Vanessa Shaughnessy](#)
To: [Limited License Legal Technician](#)
Subject: Consumer Money and Debt Law
Date: Sunday, July 08, 2018 3:57:09 PM

I'm writing you to strongly support the addition of the new LLLT practice area. I'm intending to become a LLLT and am currently volunteering at an organization that provides legal aid for tenants and those who have past financial issues that are keeping them from getting housing. From that vantage point, I can say that our state absolutely needs more accessible legal resources to help people with their financial issues.

I do hope the scope of the practice area will include settling judgments, as this a crucial need for people trying to get their lives back on track. My family needed this kind of legal help when we purchased our home, and it cost us \$8,000 on top of the existing financial burden of the old judgement. It nearly cost us our chance at homeownership, and we would have jumped at the opportunity to use a moderately priced alternative.

I hope that the new practice area will go forward with a wide enough scope to provide meaningful, coherent help for people.

All the best,
Vanessa Shaughnessy

From: [d hein](#)
To: [Limited License Legal Technician](#)
Subject: Consumer, Money and Debt law- proposal
Date: Tuesday, May 15, 2018 2:16:23 PM

Dear Ms. Ivarinen and LLLT Board:

Thank you for allowing bar members to comment upon this proposed area of practice.

In short, there are currently plenty of providers for the services that were listed as being considered possibly appropriate as LLLT practice areas. Consumer counseling services are readily available at various price points. In addition, identity theft is usually handled more than adequately with one's Bank and the three major reporting credit bureaus.

A recent LLLT experience:

My husband and I, both lawyers in the state of Washington, sold a house in Washington last month and dealt with a licensed LLT as the closing officer. Her employer claimed she had been a real estate closing officer for more than 15 years. She was unable to answer questions of any sort including the most basic type, gave unasked-for advice which I believed was unnecessary in the circumstances, and claimed that she had no authority to modify any of the forms she utilized. One form in question was defective on its face, requiring modifications in order to be accurate. When she informed me she could not change the form I had to ask to speak to house counsel. No one knew the name of her supervising attorney. Her service was unsatisfactory, to say the least. Our closing was completed only because I ensured that it was. I cannot imagine what non-lawyers must endure in order to effect a real estate transaction.

This anecdote is not a stand alone, unfortunately. Instead of expanding the powers and authority of LLLTs in the name of serving the public, my recommendation is that we clean up the standards and the competencies of the current group of LLLTs. It is a disservice to the public for us to do anything else.

I believe that LLLTs can and do serve the public. I am a former paralegal educator and am aware of the good that can be done for clients in terms of simple, repetitive tasks. This would not include, for example, much in the areas of debt or loan counselling. But in our hurry to put LLLTs to work quality and standards should not be compromised.

Thank you for this opportunity to raise a red flag.

Dana Hein

From: [Crawford, Sarah \(DOL\)](#)
To: [Limited License Legal Technician](#)
Subject: Consumer, Money, and Debt Law
Date: Friday, July 13, 2018 3:21:03 PM
Attachments: [image2018-07-13-145625.pdf](#)

Good Afternoon,

Please find attached comments submitted on behalf of the Washington State Collection Agency Board.

Thank you,

Sarah Crawford

Washington State Department of Licensing

Board Support Supervisor

Regulatory Boards Section

Mailing: P.O. Box 9012, Olympia WA 98507

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STATE OF WASHINGTON
DEPARTMENT OF LICENSING
PO Box 9020 • Olympia, Washington 98507-9020

July 13, 2018

Washington State Bar Association
LLLT Board
LLLT@wsba.org

Re: Consumer, Money, and Debt Law
Public Comment from the Washington State, Collection Agency Board

Mr. Chairman Crossland and Members of the Board:

Please accept these comments of the Washington State, Collection Agency Board concerning the proposed new practice area for LLLTs in Consumer, Money and Debt Law.

The Washington State Collection Agency Board ("CAB") is a state regulatory board created by statute, RCW 19.16.280, to advise and assist the Department of Licensing (Department) with enforcement of the Washington State Collection Agency Act, RCW 91.16. *et. seq.*, and with the power to adopt rules and regulations, investigate collection agency complaints, impose discipline and grant or deny collection agency licenses. See RCW 18.235.030. The board is comprised of five members, two public and two industry representatives appointed by the Governor, and one member of the Department of Licensing appointed by its director.

The purpose of this letter is to neither support nor oppose the Consumer, Money, and Debt Law LLLT proposal (LLLT Proposal), but rather to request that the CAB be included and consulted as a stakeholder with respect to certain portions of the proposal which may overlap or interfere with the DOL's current regulatory function. The CAB would like to avoid any unintended consequences created by the interplay and potential conflict between the Consumer LLLT proposal and CAB's regulatory duties.

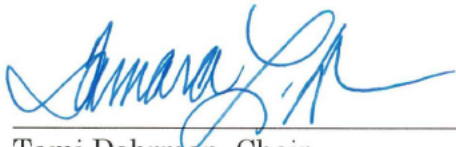
Currently, CAB is concerned by the following services listed in the LLLT proposal, which potentially fit within the definition of a "collection agency activities" under RCW 19.16.100(4)(b):

- Small Claims: "Assistance preparing the Notice of Small Claim ... Small Claims Judgment, and counterclaims."
- Debt Collection Defense and Assistance: "Assistance filling out complaints"; and
- Garnishment: "Assistance filling out forms (Application for Writ of Garnishment, Continuing Lien of Earnings, Return of Service, Notice of Exemption Claim, Release of Writ of Garnishment, Motion and Cert. for Default Answer to Writ of Garnishment, Application for Judgment, Motion/Order Discharging Garnishee, and Satisfaction of Judgment)."

CAB is concerned that by including the activities listed above, LLLTs who perform them could be required to be licensed as collection agencies, or conversely, that their inclusion could cause those activities to fall under the purview of the practice of law, requiring collection agencies to be licensed by the WSBA.

It is the hope of the Board that any LLLT Proposal adopted will account for the Departments function or avoid the potential licensing conflicts identified above. In any case, the CAB would appreciate being included as a stakeholder going forward.

The CAB would like to request that the Washington State Bar Association conduct additional outreach to various stakeholders of the industry and the CAB would like to propose the deadline for comment on this topic be extended past the original July 16, 2018 deadline, to allow for various stakeholders to provide comment that were not included in the original outreach from the Washington State Bar Association and the LLLT Board.



Tami Dohrman, Chair



Date

From: [Matt Crane](#)
To: [Limited License Legal Technician](#)
Subject: Consumer, Money, and Debt Law proposal
Date: Monday, May 21, 2018 6:32:52 AM
Attachments: [image001.png](#)

Dear Mr. Crossland—

I am in favor of the proposed LLLT practice area for consumer, money and debt law. It makes sense to me that trained LLLT practitioners be allowed to provide limited legal services in this area to help fill an unmet need.

Matthew C. Crane, WSBA 18003
Direct | 206.905.3223
Email | mccrane@bmjlaw.com



From: [Cameron Fleury](#)
To: [Limited License Legal Technician](#)
Subject: Do not expand (or keep) the LLLT program
Date: Tuesday, May 15, 2018 4:34:30 PM

To Whom it May Concern:

Thank you for requesting input from Members.

First, by way of full disclosure, let me say that I am opposed to the entire LLLT program. While it may have been well-intentioned to start, the reality is that the LLLT's are not providing a stop-gap for low income persons to avoid being Pro Se. They are competing directly with, and at the same rates, as attorneys and we are being forced to subsidize them with our Dues. The entire program was "sold" as providing low income assistance, which was almost immediately dropped. Then it was "sold" as being a test that once substantial data had been collected and analyzed, if the program was a "success" then it would be considered to be expanded. The truth is that there has not been anything near enough data to support any conclusions (even whether they are harmful) at this time.

Barreling forward at breakneck speed to expand into as many areas of practice as possible is helping Community Colleges and the WSBA Staff dedicated to the LLLT program. It is not assisting the target market (low income persons with access to justice issues), it is in direct competition with those of us who paid our dues in schooling, testing, CLE requirements and disciplinary supervision if/when needed.

That said, I strongly believe that before even considering whether to expand the LLLT program, it should at least be in existence long enough to support a reliable conclusion it is 1) a benefit to the public, 2) does not financially harm attorneys, and 3) does not harm the public (failure to properly distribute retirements, calculate support deviations, address various consequences of different distributions of a marital estate, etc. etc. etc.).

I do not practice debtor/creditor law, but I can envision many issues with allowing under-trained LLLT's into the area and the potential harm to the public.

Regards,
Cameron J. Fleury
WSBA #23422

From: [Kathy Rall](#)
To: [Limited License Legal Technician](#)
Subject: expansion of LLLT program
Date: Tuesday, May 15, 2018 1:05:07 PM

Why don't you just open every area to the practice by LLLT's and all the lawyers can quit their jobs and go do something fun with their time? How to solve problems such as these? Earn more if possible, but more importantly, SPEND LESS and SPEND WISELY. This is an educational process, but my parents taught me that I was entitled to something when I could afford to pay for it. No one is entitled to have expensive TVs, new cars, expensive toys, new clothes every season etc. Each of us is entitled, to have that for which we can pay. As Mom and Dad used to say....."you don't get what you want until you can afford to pay for it" and "you need to decide to purchase that which you need, not what you want". If more people would keep Mr. Visa or Mr. Debit Card, or Mr. contract" etc. in his or her pocket then some of these issues would go away. Call me old fashioned, but if we started here, then perhaps not all of these services would be necessary

--

Kathy J Rall
kjrall8@gmail.com
C: 206-604-4193



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From: [N. Smith \(Smitty\) Hagopian](#)
To: [Limited License Legal Technician](#)
Subject: full speed ahead
Date: Tuesday, May 15, 2018 1:55:45 PM

Hi Board/Steve: This is an area that needs to be filled and an LLLT is the right move for our times. I trust you/your Board will be cautious in drafting the parameters and wish you well.

My two cents.

Thanks,

Smitty Hagopian

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'Sinner' and 'saint' are waves of differing size and magnitude on the surface of the same sea. Each is a natural outcome of forces in the universe; each is governed by time and causation. Nobody is utterly lost, and nobody need despair.

From: [Bar Leaders](#)
To: [Limited License Legal Technician](#)
Subject: FW: LLLT in creditor/debtor practice
Date: Tuesday, July 17, 2018 10:58:04 AM

-----Original Message-----

From: Mark Kaiman [<mailto:mark@lustick.com>]
Sent: Tuesday, July 17, 2018 8:31 AM
To: Bar Leaders
Subject: LLLT in creditor/debtor practice

Why did I bother going to law school? Why did I even bother getting a Bachelor's degree? The WSBA seems determined to allow community college graduates with a few hours of supplemental training to practice law. What practice area is next on your agenda? Which group of lawyers who have worked hard for years to build successful practices are you going to undermine by allowing LLLT's to move in and steal their business? Maybe the WSBA is going to start recommending that LLLT's sit as judges. Why not? You can pay them less than judges who are actually qualified. It sounds absurd, but it is no more absurd than allowing unqualified people to practice family law or creditor/debtor law.

The Bar Association does not represent my interests. Instead of helping hard working attorneys and clearing a path for us to serve our clients and build our practices, the WSBA continually thinks of ways to place roadblocks and obstacles in front of us. LLLT's have should not even be practicing family law. I am extremely disappointed that the Bar Association would even consider allowing LLLT's to move beyond the family law area.

Mark A. Kaiman
Lustick Kaiman & Madrone PLLC
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Bellingham WA 98225
Telephone 360.685.4221
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From: [Bar Leaders](#)
To: [Limited License Legal Technician](#)
Subject: FW: Opposition to Allowing LLLTs to Practice Debtor/Creditor Law
Date: Tuesday, July 17, 2018 10:58:25 AM

-----Original Message-----

From: jwchessell@rockisland.com [<mailto:jwchessell@rockisland.com>]
Sent: Monday, July 16, 2018 3:17 PM
To: Bar Leaders
Subject: Opposition to Allowing LLLTs to Practice Debtor/Creditor Law

Monday July 16, 2018

To: Washington State Bar Assn
Seattle, WA 98101

RE: Opposition to Allowing Limited License Legal Technicians to
practice Debtor/Creditor law

Dear WSBA:

I am opposed to allowing Limited License Legal Technicians to practice Debtor/Creditor law. This is a complicated field that embraces many other areas of law, such as contracts, agency, residency, standing, bankruptcy, criminal law, constitutional law, equity, remedies, commercial paper, evidence, and on-and-on.

The proposal does not well-serve the community, but rather allows persons with a limited knowledge of law and a limited experience in practicing law to represent clients who may make their choice of representation based solely on price.

The proposal is a mistake and should be shelved.

Very Truly Yours,

John Chessell Bar # 19370
San Juan Island, WA
jwchessell@rockisland.com

From: [Irwin Law Firm](#)
To: [Limited License Legal Technician](#)
Subject: General comment on LLLT
Date: Thursday, June 21, 2018 9:38:21 AM

My general feedback on LLLT's is that LLLTs are a band-aid on the cancer of the current legal practice/service delivery model. There is a huge need that lawyers are not addressing because they are busy making money, in part because it costs so much to become and stay a lawyer. LLLT's have been developed in part so that "real" lawyers don't ever have to become affordable, yet under the best of conditions poor/moderate income people assisted by an LLLT will not be represented or assisted as well, or as holistically. Whereas at least to some degree a little less qualified help is better than nothing, it can also be problematic because their knowledge base is not as broad. Furthermore, it only postpones the ultimate outcome – LLLT practice areas will/must continue to expand to cover all legal areas (or it will not address the disparities we see). IMO, the WSBA should stop bifurcating the problem and start figuring out alternate models that make becoming and staying a full-fledged attorney affordable and accessible. I imagine the biggest push back against it are those attorneys that charge good money just for being well-dressed and breathing, and forgive me for saying that paradigm needs to die. As officers of the courts there should be better regulation of not only our conduct but gender and other equity in terms of fees. If these things happened, we wouldn't need an LLLT program.

Thanks for your attention.

C. Olivia Irwin, J.D.

Irwin Law Firm, Inc.
358 E. Birch Ave., Ste. 202
Colville, WA 99114
(509) 684-9250
FAX: (509) 684-9252

[illegible]

From: [Rick Bartholomew](#)
To: [Limited License Legal Technician](#)
Subject: Input regarding LLLT program
Date: Wednesday, May 16, 2018 12:13:44 PM

I am a retired family law attorney, although I still do GAL work and mediation.

I do not believe the LLLT program should be expanded. I was involved when the original proposal came up years ago. The first (and primary) justification for the program was that there was an unmet need for legal services for those who could not afford attorneys. LLLT's now charge rates comparable to those of attorneys, and indicate that they cannot afford to provide services for less. In addition, there are very few LLLT's. We do not have enough information to know how this program will work.

LLLT's have smaller bar dues than do attorneys. I assume the justification for that is that they were expected to charge lower fees, which they do not do. In other words, attorneys are subsidizing direct competitors.

So LLLT's were supposed to help low income folks, which they do not do. We were told that they would not be allowed to represent clients in court, which they are now asking to be able to do. If the program is to be expanded, it should go back to its original purpose (providing low income clients with legal help), and we should have more information on how well they are doing.

In the past, I had clients come to me to fix problems created by non-attorneys who helped them with their legal work. Sometimes I could do so, although the cost was higher than it would have been for me to represent them in the first place. Sometimes it was too late to do anything. This is why we need time to gather information regarding the effectiveness, and, frankly, competence, of LLLT's, before we expand the program.

Rick Bartholomew
WSBA #3107
Guardian ad Litem and Mediator
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From: [Steven Palmer](#)
To: [Limited License Legal Technician](#)
Subject: Letter in opposition to the formation of a Consumer, Money and Debt Law LLLT
Date: Friday, May 25, 2018 3:23:55 PM
Attachments: [image001.jpg](#)
[image002.jpg](#)

Dear WSBA,

The practice of law surrounding debt can be extremely complex, impacting practically every substantive area of the law. It is also one of the most impactful areas of the law on individuals. If someone misses a deadline, a house can be in jeopardy, a bank account can be attached or wages can be garnished. There are enough qualified unemployed members of the bar to pick up the slack in this area of the law. Perhaps the WSBA could act as an advocate for these unemployed attorneys and train them to help the people that this LLLT group would serve.

The average student debt of a newly graduated attorney in Washington state was \$140,616 in 2012. Between 31 and 51% of law school grads do not have long term employment requiring a law license after graduation from Washington law schools. Source – American Bar Association. There are still law school grads that do not have jobs and the subject matter here is too sensitive to leave to non-lawyers to try to figure out.

I can imagine situation after situation where an LLLT would end up inadvertently or purposefully advising clients on the merits of bankruptcy as an alternative. This single scenario would run the LLLT in violation of the bankruptcy code. Further, it would potentially put the assisted person's vulnerable assets at risk.

We do not need another LLLT practice area.

Sincerely,



Steven M. Palmer
ATTORNEY

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We are a debt relief agency. We help file for bankruptcy relief under the Bankruptcy Code.

From: [Eric Theile](#)
To: [Limited License Legal Technician](#)
Subject: LLLT - Consumer, Money, and Debt Law
Date: Tuesday, May 15, 2018 1:19:25 PM
Attachments: [image003.jpg](#)

Dear Mr. Crossland and Ms. De Carvalho Garcia,

I was formerly a collection attorney in Washington and Arizona, and ran my firm's Washington office. I have filed thousands of collection lawsuits. I now very often represent debtors against those same types of claims.

I think the expansion of the LLLT program to this area is a fantastic idea. I would strongly caution that LLLT's be thoroughly trained on how to provide value and assistance to consumers.

99.9% of debtors owe the accounts and balances being sought by their creditors. And unfortunately, most of those debts provide for default interest rates and attorney's fees. Debtors certainly should not roll over when they don't believe they owe an alleged debt, but any collection attorney will tell you stories of \$2,000 turning into \$5,000 after contested hearings, interest and judgment enforcement.

My point is: as attorneys we are counselors. And while the LLLT program may not mirror all of the duties and obligations of an attorney, their role inevitably will be (and should be) to counsel their clients. Understanding when to fight a debt, and when to seek favorable settlement terms is crucial to providing value to the debtor. Availing oneself of an LLLT in order to file answers or objections is wonderful for people who are intimidated or unable to act on their own. The flip side is that very often, the best result is achieved by picking up the phone and seeing what can be agreed to outside of court.

I welcome the opportunity to speak further with anyone on this issue. Godspeed.

Kind regards,

Eric M. Theile - WSBA 44397

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From: [Malena Pinkham](#)
To: [Limited License Legal Technician](#)
Subject: LLLT - New Practice Area
Date: Tuesday, May 15, 2018 2:45:58 PM

Expanding the LLLT program to additional practice areas is a terrible idea. The entire LLLT program is bad for the citizens of Washington. The answer to limited legal services is not to provide people with sub-standard advice from non-lawyers. Why do the less fortunate deserve lesser quality services? I continue to be amazed and embarrassed that this program was ever started. Expanding it is naïve, dangerous and unfair to the vulnerable people receiving, and making major life decisions based on, the advice and issue-spotting ability of these “technicians.”

Absurd.

Malena F. Pinkham
Staff Attorney
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Work Cell: (541)215-2004
MalenaPinkham@ctuir.org

From: [Kirk Davis](#)
To: [Limited License Legal Technician](#)
Subject: LLLT
Date: Tuesday, May 15, 2018 2:01:41 PM
Attachments: [LOGO for email.jpg](#)

My concern is the continued expansion of the LLLT and licensing of same by the Bar. I think the continued pushing of LLLT into other areas is a bad idea for the bar and for the public. The public will think they are getting the same service from an LLLT that they would be from an attorney as this activity is sanctioned by the Bar. Of course, this assumption is incorrect.

Kind regards,

Kirk C. Davis
Attorney



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From: [Mark McClain](#)
To: [Limited License Legal Technician](#)
Subject: LLLT
Date: Tuesday, May 15, 2018 1:25:32 PM

This is really disappointing. While I appreciate there are needs for many, we continue to fund them through things like NWJP, yet fail to demand they actually serve these needs. If you are going to take away opportunity from your members with this area of law, you should first reduce the cost for your membership.

From: [Chris Van Vechten](#)
To: [Limited License Legal Technician](#)
Subject: LLLT Consumer & Debt Law
Date: Tuesday, May 15, 2018 7:24:56 PM

Greetings,

While the idea of the LLLT is well meaning, in practice, it strikes me as ineffective and ignorant of the realities on the ground people living in poverty face. I'm primarily a criminal defense attorney (hopefully the Constitution will, in 10 years, still be interpreted to entitle defendants to an attorney and not a LLLT) and the vast majority of people I represent are the sort of people who these programs are targeted to address.

I have often worked for people at rates that work out to less than \$40 an hour, but poverty tends to be the result of compounding problems that often exceed the financial bandwidth of the client. I do not believe that an LLLT could realistically assume the multiple roles an attorney does for less than \$40 an hour, without sacrificing significant quality.

I understand pro ses are frustrating for judges, but I suspect they are also inevitable. I have yet to find a member of my profession who supports this program and other than some super law firms who turn their paralegals into LLLTs to charge additional fees, I rarely confront them in my practice. The program should be scrapped.

--

Chris Van Vechten

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From: [Donna Person Smith](#)
To: [Limited License Legal Technician](#)
Subject: LLLT Expansion
Date: Friday, May 25, 2018 2:14:17 PM

Good Afternoon:

I understand the board is working on a new LLLT practice area — consumer, money and debt law. I am opposed to any expansion of the LLLT program. I am also opposed to any expansion of the role of LLLTs in family law matters. I am appalled that there is now a push for them to be able to appear in court. There are plenty of attorneys willing to work with low income clients by offering their services pro bono or on a reduced fee schedule.

Donna Person-Smith
Managing Attorney
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From: [stewart law](#)
To: [Limited License Legal Technician](#)
Subject: LLLT expansion
Date: Friday, May 25, 2018 4:37:07 PM

This letter is intended to respond to the call for input on the expansion of LLT's area of practice.

LLTs were not, are not and will not be a good thing for the WSBA, its members or the public they ostensibly were intended to serve.

Hurting the current and future dues-paying, licensed, educated Attorney members of the WSBA by allowing LLTs to compete with us, at our expense is an affront. The idea is so obviously contrary to the core function of any professional organization, it remains a mystery how it was initially approved.

No expansion of the areas of practice and allowed functions of LLTs should be made. A complete review of the program and the funding spent by WSBA should be undertaken.

William J. Stewart, Attorney at Law

From: [Carter Hick](#)
To: [Limited License Legal Technician](#)
Subject: LLLT Feedback
Date: Friday, May 25, 2018 1:18:00 PM
Attachments: [image001.png](#)

Hello,

Per your 5/25 e-newsletter, I want to provide feedback on the LLLT program and its possible expansion.

The entire program is a waste. If the WSBA, law schools and state government want lawyers to provide affordable legal services, then efforts should be made at making law school affordable. Tuition at 30k a year, 40k a year . . . and higher for law school? How can you expect a recent grad to work in public service, provide affordable services, or engage in pro bono work if she is saddled with 100k plus in student loan debt?

The solution is to great a LLLT program? Really?

Sad for us and any other person that is not independently wealthy and chooses to go to law school, but I guess it is good for the law schools – they can start collecting LLLT tuition on top of the law school tuition. Oh yeah, lenders will benefit, too. The public? You tell me. How is the LLLT program working so far? How many do we have now in the state?

Carter Hick

[HICK LOGO color-no logo-logo](#)



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From: [Anita Redline](#)
To: [Limited License Legal Technician](#)
Subject: LLLT new fields of law REALLY?
Date: Sunday, May 20, 2018 11:32:20 PM
Attachments: [image001.gif](#)
[image004.jpg](#)

Hello, Just my 0.2

Has there been a study as to whether the needs were actually unmet in these additional legal fields of law?

If the needs of the majority were met but there exists a minority whose needs were unmet, why? Only financial? Many attorneys offer a payment plan, a discount upon an initial sizeable payment, or the attorney's paralegal can handle the matter under supervision of the attorney.

Were the individuals unable to understand how to use the WSBA Directory, unable to find the law group, unable to use various websites like AVVO, etc.?

Many attorneys are not charging the high rates anymore and not charging for every email or phone call. But if LLLTs enter into some of these legal fields filled with new attorneys trying to make a living, those attorneys will leave for other legal fields but those other fields are already filled to the brim with attorneys too. LLLTs are becoming like balloons: you squeeze one end and the other end pops out. We have just too many legal representatives, three law schools, numerous students graduating into the legal fields, we're over capacity to maintain financial supports of these various levels of legal expertise.

Once LLLTs are in another legal field, attorneys struggle to meet their bottom line because attorneys are far more in debt than LLLTs for their education.

LLLTs are undercutting paralegals who work already under supervision by their attorneys. Attorneys graduating in the last 5 years are still struggling.

The real motive for LLLTs is not to help the common person but to help law

schools that are suffering from decreasing students.

The real challenges in the world of law: A law education is so expensive, complexities of law have greatly increased, law schools inadequately prepare potential attorney, rules and regulations continually change, too many experienced attorneys, too many newly graduated law students - how can LLLTs make it?

How are new attorneys suppose to get any experience when LLLTs jump in? These legal fields listed in the report are the types of fields new attorneys use to get their experience. It's like taking away the wetlands from baby salmon. Leave the environment alone so that new attorneys can grow and become great attorneys. (notice I didn't say expensive)

I am so glad that I am not a new attorney!

Very truly yours, Anita Redline

The "secret" to caring *for* the client is caring *about* the client.



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From: [Rich Davis](#)
To: [Limited License Legal Technician](#)
Subject: LLLT Question
Date: Friday, May 18, 2018 4:35:54 PM

Is the proposal likely to be an expansion of existing licensing authority, or a separate license in the area of consumer debt? I think the former is a good idea, the latter a mistake. I can expand my comment depending on your answer.

This area of practice is full of land mines. The big creditors have a lot of influence in the law, the credit reporting bureaus seem to require a deposition order to begin communicating, and some of the federally required credit resolution processes for credit card companies are not working. I have found a good solution; I use very little credit. However, even the three credit cards I use and pay fully each month cause me trepidation. I also order on-line from very few vendors: Amazon, Southwest Airlines, and two antique car providers is almost a complete list. It is a fright out there.

Thank you,

Richard J. Davis
WSBA 12481

From: [Donald Ferrell](#)
To: [Limited License Legal Technician](#)
Subject: Illt was conjured up by the incompetent idiots at WSBA and so called "supreme court". Family law was first and proved to be a bust. Why keep repeating your errors?
Date: Wednesday, June 20, 2018 10:29:07 AM

Donald W. Ferrell Honorary WSBA 1973
Sent from [Mail](#) for Windows 10

From: [Jennifer R. Smith](#)
To: [Limited License Legal Technician](#)
Subject: LLLT
Date: Tuesday, May 15, 2018 9:52:51 PM

I hate to be so frank but this program is a complete disaster! I practice family law in Thurston County. The documents I have received from LLLTs are not done correctly. Parties will use LLLT to draft and give legal advice but the use the LLLT as a bar to negotiations because they cannot negotiate on the client's behalf. Then what I find absolutely shocking is the amount of money the LLLTs are charging. It is the same amount as many attorneys. This program was to reduce costs. It has done quite the opposite after an attorney has to come in and do clean up.

This program should be discontinued. Complete insult to the legal profession.

Very truly yours,

Jennifer R. Smith

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From: [MICHAEL GOLDENKRANZ](#)
To: [Limited License Legal Technician](#)
Subject: LLT expansion into consumer debt
Date: Tuesday, May 15, 2018 1:46:00 PM

Great idea- keep expanding into more areas and providing the education venues and programs to train LLT's.

Why not have them help with actual bankruptcy filing?

And, while I think the protection order help is essential, confusing that it got folded into consumer debt expansion.

Kudos

Michael Goldenkranz (pro bono attorney)

From: [Steve Lovekin](#)
To: [Limited License Legal Technician](#)
Subject: LLT New Practice Area
Date: Tuesday, May 15, 2018 2:50:03 PM

I strongly object to the addition of new practice areas for the LLT's. It was inevitable when the LLT system started that, like all good bureaucracies it was seek to expand its reach. From what I've seen LLT's often charge a fairly high hourly rate, taking business away from lawyers who are just starting out and who want to charge less than the big established firms in order to gain business. LLT's are also appearing in court in family law cases, which they should not be doing. Court appearances are a quintessentially legal activity that should be reserved for lawyers who have spent the time, energy, and money to attend three years of law school, usually with at least one trial practice course under their belt. If one can essentially practice law without going to law school, why would one even bother going? This expansion of non-lawyers into the practice of law demeans the profession and should be eliminated.

Osgood S. Lovekin

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From: [David Mott](#)
To: [Limited License Legal Technician](#)
Subject: Lt to WSBA -LLLT
Date: Friday, July 06, 2018 4:59:09 PM
Attachments: [Lt to WSBA -LLLT.doc](#)

The MOTT LawFirm

David C. Mott

also admitted in Ohio and Illinois

July 17, 2018

TO: LLLT Board via email to LLLT@wsba.org

RE: Proposed Consumer, Money, and Debt Law LLLT Practice Area
Scope Proposed Permitted Actions & Proposed Limitations

LLLTs should be licensed to assist clients with issues related to legal financial obligations, debt collection and garnishment defense, identity theft, preparing for small claims court, and filing protection orders.

I strongly support the expansion of LLLT's service into this area of practice based on (1) my 49 years of law practice during which I have provided defense services to my clients in this practice area and (2) a successful history of collaborating with an LLLT to provide family law services to mutual clients. In addition, I have extensive experience in the foreclosure defense and mediation practice area.

This debt-collection area of the law is fraught with traps often initiated against unsuspecting consumers. In the consumer debt-collecting defense area, I typically begin my representation of a client by having my client fill out an extensive questionnaire that is designed to establish creditor-collector violations of the debt collection statutes. In almost every case, there is a violation. More recently, there are a lot of statute of limitation violations by collectors. In some cases, the collector does not have a Washington state license to engage in collection services. In almost every case, I conclude such services with a very satisfied client.

If the matter is in litigation, sending an extensive subpoena duces tecum and scheduling a deposition often results in favorable results for my client.

Most often, I do this work at a very minimal fee but it often concludes with most of my services being provided pro bono. I do this because I was raised in a very poor, large family wherein I experienced the devastating adverse effects perpetrated against my parents by bill collectors.

Based on my experience of working collaboratively with an LLLT in the family law area, I can envision an equally successful collaborative practice with LLLTs in this expanded practice area.

MAIL ONLY TO: 16821 Smokey Point Blvd, # 811, ARLINGTON, WA 98223
OFFICE AT: Professional Services Center, Smokey Point Dr., Arlington, WA 98223
PHONE/VOICE MAIL: 360-435-5656 ♦ **FAX:** 360-435-4742 ♦ **EMAIL:**
mott@mottlaw.net

I would strongly support the proposed scope of Permitted Actions & Proposed Limitations with one recommendation: that is, that the LLLT be permitted to review with prospective client the requirements for qualifying for Chapter 7 & Chapter 13 relief under the Bankruptcy statutes.

Very truly yours,

The MOTT LawFirm

By /s/ David C. Mott
David C. Mott

DCM/jem

MAIL ONLY TO: 16821 Smokey Point Blvd, # 811, ARLINGTON, WA 98223
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mott@mottlaw.net

From: [Inez "Ine" Petersen](#)
To: [Limited License Legal Technician](#)
Cc: [Bill Pickett](#)
Subject: My comment: The LLLT Board is developing a new practice area and wants to hear from you
Date: Tuesday, May 15, 2018 1:22:08 PM

Dear LLLT Board:

I recommend that your Board be disbanded immediately.

Is the WSBA undermining its members or representing them? It looks like the former to me.

This is the most absurd idea since mandatory professional liability insurance. And it shows that the Bar has just too much money laying around and must seek ways to spend it no matter how it hurts the attorneys they allegedly represent.

I don't want the WSBA taking action that reduces my chances of making a living. I want the WSBA to facilitate my career, not undermine it!

WHAT ARE YOU THINKING? WHO IS REALLY BEHIND THIS?

This shows that there is a real need for voting to occur at the member level on everything with a greatly reduced staff. All the committees, boards, and huge number of in-house employees seem to be working on projects that are not in the best interest of the attorneys. This is just another one.

A voluntary bar association would nip this problem in the bud or would it? The Titanic needs a new captain, one with eyes to see the icebergs. I look at the WSBA as a professional union; I want that union to plug the holes in the life boats, not create more holes.

Sincerely,
Inez Petersen
WSBA #46213

----- Forwarded message -----

From: **Washington State Bar Association** <noreply@wsba.org>
Date: Tue, May 15, 2018 at 11:46 AM
Subject: The LLLT Board is developing a new practice area and wants to hear from you
To: inezpetersenjd@gmail.com

Washington State Bar Association



The LLLT Board is working on developing a new LLLT licensed practice area—**Consumer, Money, and Debt Law**—and would like your feedback. A [draft outline of the proposed practice area](#) is under development. The LLLT Board is seeking comments through July 16.

There are several ways you can help shape and be involved in the process, and we hope you will be. Please consider reviewing the draft and being involved in the next steps by:

- Providing feedback on the initial draft and subsequent versions,
- Attending the [LLLTT Board meetings](#), which are open to the public, and
- If the new practice area is approved by the Washington Supreme Court, assisting the LLLT Board with writing the rule, regulations, and exam for this practice area.

Please submit comments, questions, or concerns to lllt@wsba.org.

The LLLT Board looks forward to hearing from you.

Sincerely,

Stephen R. Crossland

Chair, LLLT Board

Renata de Carvalho Garcia

WSBA Staff Liaison to the LLLT Board

[WSBA seal](#)



Washington State Bar Association

[1325 Fourth Ave., Suite 600](#)

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Local: 206-443-9722



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- Licensing and licensing-related materials
- Information about the non-CLE work and activities of the sections to which the member belongs
- Mandatory Continuing Legal Education (MCLE) reporting-related notifications
- Election materials (Board of Governors)
- Selected Executive Director and Board of Governors communications



From: [Lynn Clare](#)
To: [Limited License Legal Technician](#)
Subject: New licensing area
Date: Tuesday, May 15, 2018 2:23:19 PM

Reader:

Originally when the reason for the existence of the LLLT was given as "a way for low income folks to receive legal help", I supported the idea of a limited license. Now however, I hear that is no longer the justification. In my opinion, it was the only reason that justified the existence of this class of license to practice law.

Therefore, not only should this class of license to practice law NOT be extended to Consumer, Money, and Debt -- it's existence to practice any other area of law should be revoked. I am angry and appalled that the WSBA -- which should be defending my license that I worked so hard to obtain -- is, in fact ready and willing to extend this serious dilution of the quality of the legal profession in the state of Washington.

Lynn C. Clare
Clare Law Firm, PLLC
Office: 206-223-8591
Direct: 253-444-4058

From: [Kyle Hills](#)
To: [Limited License Legal Technician](#)
Cc: [Mimi Wagner](#)
Subject: New LLLT Licensed Practice Area - Consumer, Money, and Debt Law
Date: Monday, July 16, 2018 2:40:14 PM
Attachments: [18WSBA-LLLT0716.pdf](#)

Dear Sir/Madam:

Enclosed is a letter from Attorney Mimi M. Wagner in regards to expanding the LLLT practice areas to include consumer, money, and debt law. Please let me know if you have any difficulty opening the attachment.

Sincerely,

Kyle Hills
Legal Assistant
Wagner Law Offices P.C.
kyle@sanjuanlaw.com
Phone (360) 378-6234
Fax (360) 378-6244
www.sanjuanlaw.com

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MIMI M. WAGNER
ALSO MEMBER OF COLORADO BAR
MIMI@SANJUANLAW.COM

July 16, 2018

Via email to: lllt@wsba.org
Washington State Bar Association
Limited License Legal Technician Board

Re: New LLLT Licensed Practice Area – Consumer, Money, and Debt Law

Dear LLLT Board Members:

I am opposed to the further expansion of the LLLT practice areas to “Consumer, Money, and Debt Law.” In general, I believe the LLLT programs are expanding rapidly without adequate evidence that they are a benefit to the public, do not financially harm attorneys, and do not harm the public. I urge the Board to act with care and consideration in its administration of the program.

Consumer, money, and debt law is enormously complicated, with implications in other bodies of law, and allowing LLLTs to practice in this area is very concerning.

I am also opposed to allowing LLLTs appear in court in this practice area, and in any other practice area for that matter. Attorneys are required to undergo years of training to appear in court, and it is an enormous responsibility to appear in court on behalf of a client. LLLTs need not have a four-year college degree. I expect that LLLTs in general may lack the perspective and appreciation for legal complexities that are borne out of law school, studying for the Bar, and practicing law as a licensed attorney.

I am also opposed to the Bar’s dramatic amounts of money being spent on this program for a limited number of LLLTs. The last information I received was \$1.7 million has been spent on 36 LLLTs. That is over \$47,200 per LLLT. The Bar’s money comes entirely or almost entirely from its members, yet the Bar members are unfairly forced to subsidize the LLLTs.

Thank you for your consideration of my comments.

Very truly yours,



Mimi M. Wagner

From: Kelly.Boodell@faa.gov
To: [Limited License Legal Technician](#)
Subject: New practice areas
Date: Wednesday, May 16, 2018 5:02:57 PM

I am a huge fan of the LLLT program! I used an LLLT for a family law matter and now have renewed faith in our legal system as a result. While access to our legal system is critical to communities who are under represented and have limited economic means, there are many who may not met that criteria and still can't afford the prohibitive costs of attorneys.

Please continue to expand the LLLT program into all areas of practice that may touch individuals with legal needs.

Respectfully,

Kelly A. Boodell
Director, Civil Rights
Western Service Area

We have moved! Our new address is [2200 S. 216th Street, Des Moines, WA. 98198](#).

e-mail: Kelly.Boodell@faa.gov
office: (206) 231-2044
cell: [\(425\) 495-4544](tel:(425)495-4544)

From: [Ashley Lauber](#)
To: [Limited License Legal Technician](#)
Subject: Objection to Expansion into Debt Law
Date: Thursday, July 05, 2018 4:47:16 PM

Pursuant to the request for comments, please see my statement as follows:

I've been a bankruptcy and debt settlement practitioner for five years. In the time I have been practicing, I have watched my filing rates and caseload diminish by 15-20% year over year and is now down to the bottom quarter of my overall revenue. Take this from a firm who had a presence in every conceivable advertising channel for debt issues including having run a television commercial for two years on Fox 13. We have done everything possible to sustain our business while providing exceptional services, using sliding scale fees even providing pro bono representation at certain points. We have had to make the decision two years ago to expand into family law, an area which is being undercut by the existing LLLT family law program, and if we hadn't chosen to make that expansion my firm would be out of business. I take great pride in having been a partner of a woman-owned firm this long that provides debt services, but we are far from thriving. It is personally insulting to me that the bar association who happily takes nearly \$500 a year from its members promptly turns its backs on us and spends dues to encourage our competition in the marketplace. It is unconscionable.

There is NO SHORTAGE of affordable legal representation in this practice area. I voice my strong objection to its implementation.

--

Ashley Lauber
Partner, Attorney at Law
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Fax (866) 497-7028
alauber@lauberdancey.com
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From: jwchessell@rockisland.com
To: [Limited License Legal Technician](#)
Subject: Opposition to Allowing LLLTs to Practice Debtor/Creditor Law
Date: Monday, July 16, 2018 3:24:06 PM

Monday July 16, 2018

To: Washington State Bar Assn
Seattle, WA 98101

RE: Opposition to Allowing Limited License Legal Technicians to
practice Debtor/Creditor law

Dear WSBA:

I am opposed to allowing Limited License Legal Technicians to practice Debtor/Creditor law. This is a complicated field that embraces many other areas of law, such as contracts, agency, residency, standing, bankruptcy, criminal law, constitutional law, equity, remedies, commercial paper, evidence, and on-and-on.

The proposal does not well-serve the community, but rather allows persons with a limited knowledge of law and a limited experience in practicing law to represent clients who may make their choice of representation based solely on price.

The proposal is a mistake and should be shelved.

Very Truly Yours,

John Chessell Bar # 19370
San Juan Island, WA
jwchessell@rockisland.com

From: [Daggett, Teresa](#)
To: [Limited License Legal Technician](#)
Subject: Opposition to proposed new LLLT practice area
Date: Friday, May 25, 2018 12:48:11 PM
Attachments: [image001.png](#)

Please register my opposition to expanding the LLLT program. With only 33 active participants, expanding the program is not reasonable.

Teresa Daggett

[Attorney at Law](#)

[Gordon Thomas Honeywell LLP](#)



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From: [Law Office of Reed Speir](#)
To: [Limited License Legal Technician](#)
Subject: Please stop taking work from lawyers
Date: Wednesday, June 20, 2018 3:34:50 PM

It is bad enough that LLLTs are taking work away from lawyers in the areas of family law. Please do not take more work away from lawyers by invading another area where lawyers can earn a living. There are sliding scale and low-income options all over the State that have been available to low-income individuals for years. LLLTs undercut small firms and solo practitioners and put them out of business. Why am I paying dues to an organization that is actively working to decrease my client base? I see lots of concern for making sure that LLLTs can have a practice that thrives, but what about the lawyers who are losing clients and going out of business because of LLLTs? Seattle is an aberration. Lawyers all over the State are struggling to make ends meet and the WSBA is promoting a program to take away more clients from those struggling lawyers. The WSBA is not serving its membership at all by pushing LLLTs.

Reed Speir

From: [Kerry Lawrence](#)
To: [Limited License Legal Technician](#)
Subject: Proposed new LLLT for consumer, debt, etc.
Date: Friday, May 25, 2018 12:51:48 PM

I think this is a great area for LLLT's.

One question I have is whether the forms they are allowed to fill out would include mechanic's lien forms, RCW 60.04?

Individual workers and small businesses need help in this area, and there definitely is a demand for these services as demonstrated by the number of lien services that already offer these services.

The lien services are of varying quality, but overall I think they do better than the majority of the liens and related documents I see that lawyers have prepared and recorded. Having an LLLT course would help improve the quality of what those services provide, and benefit a lot of individual workers and very small businesses.

Kerry Lawrence
WSBA #8479

This e-mail contains confidential, privileged information intended only for the addressee. Do not read, copy, or disseminate it unless you are the addressee. If you are not the addressee, please permanently delete it without printing and call me immediately at [\(425\) 941-6887](tel:425-941-6887).

Kerry C. Lawrence
Pillar Law PLLC
1420 Fifth Avenue, Suite 3369
Seattle, WA 98101
Phone: 425-941-6887
kerry@pillar-law.com

From: REDACTED
To: [Limited License Legal Technician](#)
Cc: REDACTED
Subject: RE: [EXTERNAL] The LLLT Board is developing a new practice area and wants to hear from you
Date: Tuesday, May 15, 2018 1:07:12 PM

Abolish the LLLT board entirely. They hurt attorneys and hurt litigants who are not getting the best legal representation possible by people without law degrees.

Thank you,
REDACTED

From: Washington State Bar Association [mailto:noreply@wsba.org]
Sent: Tuesday, May 15, 2018 1:05 PM
To: REDACTED
Subject: [EXTERNAL] The LLLT Board is developing a new practice area and wants to hear from you

[Washington State Bar Association](#)



The LLLT Board is working on developing a new LLLT licensed practice area—**Consumer, Money, and Debt Law**—and would like your feedback. A [draft outline of the proposed practice area](#) is under development. The LLLT Board is seeking comments through July 16.

There are several ways you can help shape and be involved in the process, and we hope you will be. Please consider reviewing the draft and being involved in the next steps by:

- Providing feedback on the initial draft and subsequent versions,
- Attending the [LLLT Board meetings](#), which are open to the public, and
- If the new practice area is approved by the Washington Supreme Court, assisting the LLLT Board with writing the rule, regulations, and exam for this practice area.

Please submit comments, questions, or concerns to lllt@wsba.org.

The LLLT Board looks forward to hearing from you.

Sincerely,

Stephen R. Crossland
Chair, LLLT Board

Renata de Carvalho Garcia

Name withheld upon request

WSBA Staff Liaison to the LLLT Board

Washington State Bar Association

1325 Fourth Ave., Suite 600

Seattle, WA 98101-2539 | [Map](#)

Toll-free: 800-945-9722

Local: 206-443-9722



Official WSBA communication

All members will receive the following email, which is considered official:

- Licensing and licensing-related materials
- Information about the non-CLE work and activities of the sections to which the member belongs
- Mandatory Continuing Legal Education (MCLE) reporting-related notifications
- Election materials (Board of Governors)
- Selected Executive Director and Board of Governors communications



From: REDACTED
To: [Limited License Legal Technician](#)
Subject: RE: [EXTERNAL] The LLLT Board is developing a new practice area and wants to hear from you
Date: Wednesday, May 23, 2018 2:45:39 PM

In light that you will consider all comments, please add the following to my additional comment:

I speak as a member of the WSBA since 2009, but also as a former low-income customer of paralegal services for a divorce with children in the early 2000's in Lakewood, Washington. These paralegals caused so many problems for me that I had to pay a real, licensed attorney several years later to undo all of the issues (major modification) that they could not foresee due to their limited training. Thus, these paralegals, specializing in family and equivalent to the LLLT program, caused nothing but heartache, frustration, and economic loss for the people they are allegedly serving. I will never refer anyone to a paralegal for legal services, regardless of the alleged training differences. They are simply not trained enough (as only law school gives this training) to handle the complex issues that lower income folks tend to present in family law cases. Period.

Thank you kindly,
REDACTED

From: Limited License Legal Technician [mailto:LLLT@wsba.org]
Sent: Wednesday, May 23, 2018 2:40 PM
To: REDACTED
Subject: RE: [EXTERNAL] The LLLT Board is developing a new practice area and wants to hear from you

REDACTED

Thank you for your input regarding the new proposed Limited License Legal Technician (LLLT) practice area, Consumer, Money, and Debt Law.

WSBA staff members are compiling all comments, which will be provided to the LLLT Board for consideration in deciding next steps. In the meantime, we appreciate all feedback as we work toward fulfilling our mandate by the Washington Supreme Court under [APR 28](#) to continue to recommend and develop practice areas of law for LLLTs.

At the end of the comment period in July, the LLLT Board will carefully review all comments and input. LLLT Board members may modify the proposed practice area based on the comments, issues discovered during the drafting of regulations, and issues that arise during the law schools' development of the curriculum.

From: REDACTED
Sent: Tuesday, May 15, 2018 1:07 PM
To: Limited License Legal Technician
Cc: REDACTED
Subject: RE: [EXTERNAL] The LLLT Board is developing a new practice area and wants to hear from you

Abolish the LLLT board entirely. They hurt attorneys and hurt litigants who are not getting the best legal

Name withheld upon request

representation possible by people without law degrees.

Thank you,

REDACTED

From: Washington State Bar Association [<mailto:noreply@wsba.org>]

Sent: Tuesday, May 15, 2018 1:05 PM

To: REDACTED

Subject: [EXTERNAL] The LLLT Board is developing a new practice area and wants to hear from you

[Washington State Bar Association](#)



The LLLT Board is working on developing a new LLLT licensed practice area—**Consumer, Money, and Debt Law**—and would like your feedback. A [draft outline of the proposed practice area](#) is under development. The LLLT Board is seeking comments through July 16.

There are several ways you can help shape and be involved in the process, and we hope you will be. Please consider reviewing the draft and being involved in the next steps by:

- Providing feedback on the initial draft and subsequent versions,
- Attending the [LLLT Board meetings](#), which are open to the public, and
- If the new practice area is approved by the Washington Supreme Court, assisting the LLLT Board with writing the rule, regulations, and exam for this practice area.

Please submit comments, questions, or concerns to lllt@wsba.org.

The LLLT Board looks forward to hearing from you.

Sincerely,

Stephen R. Crossland
Chair, LLLT Board

Renata de Carvalho Garcia
WSBA Staff Liaison to the LLLT Board

Washington State Bar Association

Name withheld upon request

1325 Fourth Ave., Suite 600
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- Information about the non-CLE work and activities of the sections to which the member belongs
- Mandatory Continuing Legal Education (MCLE) reporting-related notifications
- Election materials (Board of Governors)
- Selected Executive Director and Board of Governors communications



From: [Scott M. Kinkley](#)
To: [Limited License Legal Technician](#)
Cc: [César Torres](#)
Subject: RE: Consumer, Money, and Debt Law - comments from the Northwest Justice Project
Date: Friday, June 29, 2018 1:20:49 PM
Attachments: [Revised NJP Response to Proposed Expansion of LLLT Program To Consumer Law 6-29-18 smk.pdf](#)

Mr. Chairman,

Please accept the revised Northwest Justice Project letter, concerning the LLLT Board's Consumer, Money and Debt Law proposal. The revision removes my bio reference to my position on the state Collection Agency Board. Please discard the prior proposal and substitute it for this. The content is otherwise the same. Thank you.

Scott M. Kinkley
Staff Attorney
Northwest Justice Project
1702 W. Broadway
Spokane, WA 99201
(509) 324-9128
scottk@nwjustice.org

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From: Limited License Legal Technician [<mailto:LLLT@wsba.org>]
Sent: Thursday, June 14, 2018 8:34 AM
To: Scott M. Kinkley <ScottK@nwjustice.org>; Limited License Legal Technician <LLLT@wsba.org>
Cc: César Torres <Cesart@nwjustice.org>
Subject: RE: Consumer, Money, and Debt Law - comments from the Northwest Justice Project

Hi Scott,

Thank you for your input regarding the new proposed Limited License Legal Technician (LLLT) practice area, Consumer, Money, and Debt Law.

WSBA staff members are compiling all comments, which will be provided to the LLLT Board for consideration in deciding next steps. In the meantime, we appreciate all feedback as we work toward fulfilling our mandate by the Washington Supreme Court under [APR 28](#) to continue to recommend and develop practice areas of law for LLLTs.

At the end of the comment period in July, the LLLT Board will carefully review all comments

and input. LLLT Board members may modify the proposed practice area based on the comments, issues discovered during the drafting of regulations, and issues that arise during the law schools' development of the curriculum.

From: Scott M. Kinkley [<mailto:ScottK@nwjustice.org>]

Sent: Wednesday, June 13, 2018 11:20 AM

To: Limited License Legal Technician

Cc: César Torres

Subject: Consumer, Money, and Debt Law - comments from the Northwest Justice Project

Mr. Chairman Crossland and Members of the Board,

Please accept the attached letter from the Northwest Justice Project, concerning the LLLT Board's Consumer, Money and Debt Law proposal. Thank you.

Scott M. Kinkley

Staff Attorney

Northwest Justice Project

1702 W. Broadway

Spokane, WA 99201

(509) 324-9128

scottk@nwjustice.org

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Northwest Justice Project

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Toll Free 1-888-201-1019
www.nwjustice.org

César E. Torres
Executive Director

June 29, 2018

Washington State Bar Association
LLLT Board
LLLT@wsba.org

Re: Consumer, Money, and Debt Law
Public Comment From The Northwest Justice Project

Mr. Chairman Crossland and Members of the Board:

Please accept these comments of the Northwest Justice Project concerning the proposed new practice area for LLLTs in Consumer, Money and Debt Law.

A. ABOUT THE NORTHWEST JUSTICE PROJECT

The Northwest Justice Project (NJP) is a dynamic statewide law firm providing low income legal advice and representation, community partnerships, and education to empower low income clients and combat injustice in all its forms.

NJP also maintains WashingtonLawHelp.org, the public website referenced in your proposal which contains an extensive library of legal resources and self-help materials including necessary court forms in areas of law needed most by low income people, the great majority of whom are forced to appear in court unrepresented. In addition, NJP is an integral member of, and provides support for, the Alliance for Equal Justice, Washington's coordinated statewide civil legal aid delivery system which brings together a network of volunteer attorney programs, specialty legal aid providers, and supporters working to ensure equal justice for all low-income communities in Washington. It was largely through this network, and through the work of NJP staff and attorneys, that the Civil Legal Needs Study was conducted.

In response to the Civil Legal Needs Study, NJP re-organized its Strategic Advocacy Focus (SAF) and dedicated roughly one third of its resources to addressing consumer debt, legal financial obligations and landlord tenant debt. There is without a doubt an expanding need for representation in these areas. However, NJP has significant concerns with aspects of the proposal but is in support of others. More specifically,

the proposal to permit LLLTs to negotiate consumer debt would likely revive the predatory debt settlement industry. In addition, the Board's proposal to permit LLLTs to engage in debt collection, including garnishments, supplements the competitive debt collection industry, a result directly averse to the Board's mandate and the findings of the Civil Legal Needs Study.

Ancillary to NJP's primary concerns, the Board's proposal does not recognize or address the various legislative statutes and executive enforcement bodies that already regulate the majority of privileges the Board proposes to grant to LLLTs. In other words, the Board's proposal creates a secondary licensing system over non-legal professionals already engaging in many of the activities the Board intends to license. This is a concern that was not relevant to the debate over granting LLLTs the right to practice of family law, which is an exclusive domain of attorneys. Consumer law, by contrast, is substantially intertwined with market participants, statutory regulation and for profit non-lawyer services; many of which are historically predatory. For example, permitting an LLLT to "negotiate" debts would immediately subject LLLTs to regulation as a "debt adjuster" under the Debt Adjustment Act. LLLTs permitted by the WSBA to commence garnishments or prepare a debt collection complaint, would fall squarely within federal regulation as "debt collectors" under the Fair Debt Collection Practices Act, 15 USC § 1692a(5) and as "collection agencies" under Washington Collection Agency Act, RCW 19.16.100(4)(a). Moreover, the Board has not addressed the significant question of what the impact would be of creating a secondary licensing system under Washington's judicial branch of government regulating and licensing existing businesses already subject to statutory regulation and executive agency oversight.

Notwithstanding these concerns, with appropriate training and oversight, permitting LLLTs to engage in limited form based practices and non-adversarial proceedings (such as preparing answers to civil lawsuits, exemption claims to bank garnishments, and assisting with driver's relicensing and legal financial obligation waivers, restoration of civil rights etc.), and with training to identify and appropriately refer cases of unfair and abusive conduct to consumer attorneys or regulatory bodies, might positively serve the public and meet the Board's mission.

B. DEBT ADJUSTING

The proposal permits Consumer LLLTs to provide "Debt Collection Defense and Assistance" through "negotiation of debt or payment plans, loan modifications, loan forgiveness and debt relief discharge." NJP has grave concerns that these activities will increase the number of people operating as "Debt Adjusters" in Washington.

Debt adjusting is a highly regulated profession in this state. The Debt Adjusting Act was enacted in 1978, in response to rampant abuse and victimization of low income people struggling with debt collectors. The profession is defined by statute, and

clearly includes the activities proposed for LLLTs.¹ The licensing proposal also overlaps and interferes with federal bankruptcy law permitting non-lawyers to engage in credit counseling. See 11 U.S. Code § 111.

With respect to debt adjusting, Washington's Supreme Court observed that the Debt Adjuster Act was passed in response to "deep-seated concern about the abuses inherent in the debt adjusting industry." The Court found, "the lack of industry regulation, and the frequently unsophisticated and/or desperate client seeking relief from bill collectors' harassment, gave rise to numerous unfair and deceptive practices." *Carles v. Global Client Solutions*, 171 Wn.2d 486, P.3d 321 (2011) quoting *Performance Audit: Debt Adjusting Licensing and Regulatory Activities*, Report no. 77-13, Jan. 20, 1978, at 7 (on file with the Wn. State Archives, H.B. 86 (1979) at 7).

"Debt Adjusting," or selling services to negotiate settlement of debt with creditors, is an existing private industry that does not require either a full or limited license to practice law. However, people licensed as LLLTs who engage in debt negotiation will also meet the statutory definition of a "Debt Adjusters" and be separately regulated by that Act. This fact produces at least two truths in opposition to the proposed rule. First, requiring licensing as a LLLT merely supplements the existing legislative and executive regulatory framework of the debt adjusting profession with a licensing requirement governed by the judicial branch of government (raising separation of power concerns). More importantly, the proposal fails to achieve the purpose of fulfilling an "unmet need" where it merely supplements an existing, often predatory, highly regulated, non-legal profession.

The Board's current proposal also ignores the hard-learned lessons of the past. For example, NJP attorneys know from their clients' experiences that operators in the debt settlement industry often take consumers' money and fail to provide meaningful service, leaving the consumer with no benefit, and depleted resources to offer creditors. In response, many debt collectors have adopted policies to accelerate collection efforts and immediately sue debtors when a debt adjuster appears on their behalf in a race to collect depleting resources since the consumer has demonstrated an ability to pay something by hiring the service. In these instances, consumers are often betrayed by a false sense of security and allowed default judgments to be entered on the assumption the debt adjuster they hired is providing meaningful relief. Debt adjusters, as well as the putative Consumer LLLTs, cannot provide meaningful representation; Northwest Justice Project attorneys repeatedly expend substantial effort to vacate, when possible, default judgments resulting from this practice. The

¹ "Debt Adjusting means the managing, counseling, settling, adjusting, prorating, or liquidating of the indebtedness of a debtor, or receiving funds for the purpose of distributing said funds among creditors in payment or partial payment of obligations of a debtor." RCW 18.28.010(2).

proposal does not offer any protection or solution, and NJP anticipates this portion of the LLLT proposal will lead to similar harm to low income debtors.

Further, fully licensed attorneys are subject to regulation under the Debt Adjustment Act, and it is axiomatic that LLLTs will be as well. See *Bronzich v. Persels & Assocs., LLC*, No. CV-10-0364-EFS, 2011 WL 2119372, at *6 (E.D. Wash. May 27, 2011) (“Even if the Attorney Defendants are licensed to practice in Washington and therefore can seek reliance on the services-solely-incidental-to-legal-practice exemption, the Court determines this exemption does not apply to an attorney or law firm specializing in debt adjustment”).

Permitting LLLTs to engage in a business already available to non-lawyers, but subject to existing regulation, creates a confusing overlap of WSBA licensing policies with pre-existing state industry regulations. Worse, the licensing of LLLTs to specifically engage in debt settlement encourages a false perception that existing regulation is inapplicable to LLLT licensees. This perception is likely to lead to temporary growth in a predatory industry; it will likely be up to NJP and private consumer attorneys to bring consumer protection litigation against LLLTs unfamiliar with Washington’s extensive consumer protection regulations to counter regulatory transgressions and generally unfair and deceptive practices that are part and parcel with this industry.

NJP encourages the Board to strike the provisions of the proposal that authorizes Consumer LLLTs to engage in any activities classified as “Debt Adjusting”, debt settlement, credit counseling, or the like.

C. WASHINGTON STATE COLLECTION AGENCY ACT AND THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT

By allowing LLLTs to provide debt collection services, such as garnishments or ghost writing collection complaints, the Board’s current proposal also infringes on existing state and federal regulatory statutes and unnecessarily supplements a competitive industry in derogation of the LLLTs mandate to meet unmet civil legal needs.² Similarly, the proposed licensing requirement to allow certain debt collection activity places the putative LLLTs squarely within existing state and federal debt collection regulation.

The FDCPA prohibits debt collectors from engaging in various abusive and unfair practices. *McCollough v. Johnson, Rodenburg & Lauinger, LLC*, 637 F.3d 939, 947–48 (9th Cir. 2011) (internal citations omitted). “The statute was enacted to eliminate abusive debt collection practices; to ensure debt collectors who abstain from such

² On March 27, 2018, 1,524 entities had an active collection agency licensed issued by the Department of Licensing, representing a growth of 35 licensees since the fall of 2017.

practices are not competitively disadvantaged; and to promote consistent state action to protect consumers.” *Id.*; 15 U.S.C. § 1692(e). The statute defines a “debt collector” as one who “regularly collects ... debts owed or due or asserted to be owed or due another,” 15 U.S.C. § 1692a(6), and covers lawyers who regularly collect debts through litigation, *Heintz*, 514 U.S. at 293–94, 115 S.Ct. 1489. Consumer LLLTs licensed to garnish, draft collection complaints or participate in collection cases in Small Claims Court meet this definition and will be regulated by the FDCPA.

Similarly, the Washington State Collection Agency Act, chapter 19.16 RCW, enacted in 1971, requires collection agencies to obtain a license, follow certain internal procedures, and adhere to a code of conduct. Washington has a strong public policy underlying the state and federal laws regulating the practice of debt collection. *Panag v. Farmers Ins. Co. of Washington*, 166 Wn.2d 27, 54, 204 P.3d 885, 897 (2009) (“the business of debt collection affects the public interest, and collection agencies are subject to strict regulation to ensure they deal fairly and honestly with alleged debtors”). Consumer LLLTs licensed to garnish, draft collection complaints or participate in collection cases in small claims courts meet this definition, are regulated by the WCAA and must be separately licensed by the Department of Licensing.

What is confusing about the LLLT proposal, is these “services” are already widely available by regulated non-lawyer businesses (i.e. collection agencies) which also happen to be the antithesis of consumer protection law.

The Board must seriously consider whether licensing LLLTs to engage in these activities serves any unmet need identified in the Civil Legal Needs Study. It must also seriously give weight to the fact that the proposal will extend WSBA regulatory authority over thousands of non-lawyers legally performing the function the LLLT Board intends to license.

D. CONCLUSION

Finally, it is concerning that the initial Consumer LLLT proposal was developed without seeking input from Washington’s consumer protection community or legal services organizations. Consumer lawyers in this state are highly self-organized both as a subgroup of the National Association of Consumer Advocates, via participation in Washington based restricted email listservs, in person CLEs and galvanized together by the common experience of difficult litigation against well organized and well-funded corporate opponents. When the proposal was revealed, it came as a complete surprise to this community of consumer attorneys. It is regrettable that this wealth of experience and knowledge was not consulted in the development of this proposal. There is real and ongoing harm to low income consumer and debtor’s in this state; there are not enough consumer attorneys helping them to enforce their rights. But while the proposal has some promising features for our client base, our experience predicts it will, as currently drafted, be largely ineffective and in several ways harmful to consumers with unmet legal needs. Moreover, the licensing proposal cuts both

ways: LLLTs will be able to represent creditors as well as debtors thereby increasing access to justice for creditors – the unintended consequence of this rule. The unintended consequence is not theoretical given the financial resources available to hire LLLTs are greater for creditors than for debtors.

Consumer LLLTs may have a role in the quest to combat predatory practices and inform the public, but the proposed rule as drafted seems ineffective to serve that purpose. Significant modifications should be made. NJP would like to see the proposal revised to focus more on helping consumers with form based or non-adversarial proceedings, and not grant any authority to engage debt collection or to engage directly with debt collectors on a consumer's behalf.

Therefore, NJP recommends that the LLLT Board:

1. **Abandon** the proposed permitted actions of:
 - a. Negotiation of debt;
 - b. Assistance filling out complaints and counterclaims;
 - c. All actions related to garnishment except assistance with exemption claims;
 - d. All actions related to loan modification and foreclosure defense and assistance; and
 - e. Representation in court and at depositions.
2. **Consider** revising the scope of the proposed permitted actions of:
 - a. Activity involving student loan debt by permitting LLLTs to assist a debtor only with *federal* student loan repayment options;
 - b. Reporting unfair acts, deceptive practices, and consumer statutory violations to consumer protection attorneys and/or a legal services agency in addition to regulatory authorities;
 - c. Providing bankruptcy advice in a manner that conforms with and does not overlap with 11 U.S. Code § 111 (creating non-lawyer credit counseling) and fulfills an identified legal need or supplements a need not already met by “credit counselors”; and
 - d. Reducing the level of participation permitted in Small Claims Court cases to not exceed the participation restrictions in place against fully licensed attorneys. In addition, a strict prohibition against LLLTs assisting creditors in small claims litigation or engaging in other conduct

meeting the definition of “debt collector” under the FDCPA or a “collection agency” under WCAA.

3. **Adopt** the proposed permitted actions of:

- a. Assistance with waiving legal financial obligations or interest on legal financial obligations;
- b. Preparing answers to debt collection lawsuits, including helping consumers apply for Charity Care from hospitals where appropriate;
- c. Providing advice regarding identity theft, including assistance with filing police reports and filling out necessary forms from government entities or private creditors;
- d. Educate consumers on identity theft issues, best practices and provide resources (i.e. www.washingtonlawhelp.org);
- e. Assisting consumers with wage complaints to Labor and Industries, assistance with negotiation and administrative hearing in wage complaints cases, advice and reporting under the Minimum Wage Act and Fair Labor Standards Act, and referral to private attorneys or legal services of claims and statutory rights enforcement that requires civil litigation; and
- f. Assisting consumer with billing disputes with original creditors that are not in litigation, which may include preparing complaints to local, state and/or federal agencies.

4. **Add** proposed permitted actions of:

- a. Assisting consumers in obtaining relief in abbreviated or form based procedures in addition to applying for legal financial obligation (LFOs) interest waivers such as:
 - i. Waiver of LFOs (or a limited waiver of LFO interest);
 - ii. Exemption claims in garnishment;
 - iii. Relicensing programs;
 - iv. Expungement or sealing of criminal records;
 - v. Restoration of civil rights (voting);

vi. GR 34 waiver of Court fees;

vii. Other appropriate form based or non-adversarial proceedings.

- b. Assisting and advising consumers with pre-unlawful detainer landlord tenant disputes, such as documenting the condition of the property, habitability rights, applications for subsidized housing, education and resources.

Sincerely,

NORTHWEST JUSTICE PROJECT

Scott M. Kinkley³
Attorney at Law

smk/np

cc Cesar E. Torres, NJP Executive Director

³ Presenter at twenty-two WSBA accredited CLEs on debt collection defense and related issues, author of the WSAJ's Consumer Protection Handbook chapters on the Fair Debt Collection Practices Act and the Washington Collection Agency Act, , and 10-year member of the National Association of Consumer Advocates.

From: [Inez "Ine" Petersen](#)
To: [Limited License Legal Technician](#)
Subject: Re: My comment: The LLLT Board is developing a new practice area and wants to hear from you
Date: Wednesday, May 23, 2018 4:17:21 PM

Dear LLLT Board:

Did it ever occur to you that you should be lobbying the State Supreme Court to change APR 28 instead of undermining the very jobs of the attorneys to whom you owe a duty of loyalty of the first order?

Mission creep needs to stop with the goal to reduce dues by 40%. Now that is a goal I believe the majority of members of the Bar could support.

Perhaps you are too close to the problem to see that you have a problem.

Sincerely,
Inez Petersen, WSBA #46213

On Wed, May 23, 2018 at 3:08 PM, Limited License Legal Technician
<LLLT@wsba.org> wrote:

Inez,

Thank you for your input regarding the new proposed Limited License Legal Technician (LLLT) practice area, Consumer, Money, and Debt Law.

WSBA staff members are compiling all comments, which will be provided to the LLLT Board for consideration in deciding next steps. In the meantime, we appreciate all feedback as we work toward fulfilling our mandate by the Washington Supreme Court under [APR 28](#) to continue to recommend and develop practice areas of law for LLLTs.

At the end of the comment period in July, the LLLT Board will carefully review all comments and input. LLLT Board members may modify the proposed practice area based on the comments, issues discovered during the drafting of regulations, and issues that arise during the law schools' development of the curriculum.

From: Inez "Ine" Petersen [mailto:inezpetersenjd@gmail.com]
Sent: Tuesday, May 15, 2018 1:21 PM
To: Limited License Legal Technician

Cc: Bill Pickett

Subject: My comment: The LLLT Board is developing a new practice area and wants to hear from you

Dear LLLT Board:

I recommend that your Board be disbanded immediately.

Is the WSBA undermining its members or representing them? It looks like the former to me.

This is the most absurd idea since mandatory professional liability insurance. And it shows that the Bar has just too much money laying around and must seek ways to spend it no matter how it hurts the attorneys they allegedly represent.

I don't want the WSBA taking action that reduces my chances of making a living. I want the WSBA to facilitate my career, not undermine it!

WHAT ARE YOU THINKING? WHO IS REALLY BEHIND THIS?

This shows that there is a real need for voting to occur at the member level on everything with a greatly reduced staff. All the committees, boards, and huge number of in-house employees seem to be working on projects that are not in the best interest of the attorneys. This is just another one.

A voluntary bar association would nip this problem in the bud or would it? The Titanic needs a new captain, one with eyes to see the icebergs. I look at the WSBA as a professional union; I want that union to plug the holes in the life boats, not create more holes.

Sincerely,

Inez Petersen

WSBA #46213

----- Forwarded message -----

From: **Washington State Bar Association** <noreply@wsba.org>

Date: Tue, May 15, 2018 at 11:46 AM

Subject: The LLLT Board is developing a new practice area and wants to hear from you

To: inezpetersenjd@gmail.com

Washington State Bar Association



The LLLT Board is working on developing a new LLLT licensed practice area—**Consumer, Money, and Debt Law**—and would like your feedback. A [draft outline of the proposed practice area](#) is under development. The LLLT Board is seeking comments through July 16.

There are several ways you can help shape and be involved in the process, and we hope you will be. Please consider reviewing the draft and being involved in the next steps by:

- Providing feedback on the initial draft and subsequent versions,
- Attending the [LLLTT Board meetings](#), which are open to the public, and
- If the new practice area is approved by the Washington Supreme Court, assisting the LLLT Board with writing the rule, regulations, and exam for this practice area.

Please submit comments, questions, or concerns to lllt@wsba.org.

The LLLT Board looks forward to hearing from you.

Sincerely,

Stephen R. Crossland
Chair, LLLT Board

Renata de Carvalho Garcia
WSBA Staff Liaison to the LLLT Board

WSBA seal



**Washington State Bar
Association**

[1325 Fourth Ave., Suite 600](#)
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Toll-free: 800-945-9722
Local: 206-443-9722



Official WSBA communication

All members will receive the following email, which is considered official:

- Licensing and licensing-related materials
- Information about the non-CLE work and activities of the sections to which the member belongs
- Mandatory Continuing Legal Education (MCLE) reporting-related notifications
- Election materials (Board of Governors)
- Selected Executive Director and Board of Governors communications



From: [susanne.rodriguez](#)
To: [Limited License Legal Technician](#)
Subject: Re: proposed consumer LLLT
Date: Wednesday, May 16, 2018 10:52:04 AM
Attachments: [image001.png](#)

Looks good. I'm a bankruptcy attorney and I think it's a great idea to have LLLTs available.

thx,
Susanne

On Wed, May 16, 2018 at 8:07 AM, Limited License Legal Technician <LLLT@wsba.org> wrote:

Hi Susanne,

You can read the draft here:

https://www.wsba.org/docs/default-source/legal-community/committees/lllt-board/consumer-money-and-debt---draft-for-discussion-and-comment.pdf?sfvrsn=a86007f1_4



Laura Sommer | Interim Limited License Legal Technician Program Lead

Washington State Bar Association | 206.727.8289 | laura.sommer@wsba.org

[1325 Fourth Avenue, Suite 600 | Seattle, WA 98101](#)-2539 | www.wsba.org

The WSBA is committed to full access and participation by persons with disabilities. If you have questions about accessibility or require accommodation please contact barbarao@wsba.org.

From: susanne rodriguez [mailto:lacamaslegal@gmail.com]
Sent: Tuesday, May 15, 2018 2:38 PM
To: Limited License Legal Technician
Subject: proposed consumer LLLT

Is there a link to the draft somewhere?

thanks,

Susanne

--

Susanne Ruiz Rodriguez, Esq., M.S.

Attorney & Counselor at Law

[532 NE 3rd #101](#)

[Camas WA 98607](#)

(360) 835-0457

--

Susanne Ruiz Rodriguez, Esq., M.S.

Attorney & Counselor at Law

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Camas WA 98607

(360) 835-0457

From: vlaparker@aol.com
To: [Limited License Legal Technician](#)
Subject: specific comment
Date: Wednesday, May 16, 2018 8:40:01 AM

As stated in the documents regarding the specific expansion, people do not know about existing services. So, why not advertise those existing services. They were designed to help.

Also, the research is biased. The groups used to gather information have incomplete information and are looking to reduce their load and not truly serve people (see first paragraph).

Vicki Lee Anne Parker,
Attorney at Law

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Creditor/Debtor Section
Executive Committee
Washington State Bar Association
1325 Fourth Avenue, Suite 600
Seattle, Washington 98101

August 13, 2018

LLLT Board
Attn: Stephen Crossland, Chair
LLLT@wsba.org

Re: Expansion of Services by LLLTs

Dear Stephen:

The undersigned are the Chair and the Chair-Elect of the Creditor-Debtor Section of the Washington State Bar Association ("CD"). We are writing with regards to concerns CD has with the proposed expansion of the Limited License Legal Technician ("LLLT") program into the area of Consumer, Money, and Debt law. The proposed expansion was a topic of conversation at a recent CD Executive Board meeting (the "Meeting") that you attended. This letter is to memorialize our concerns and suggested recommendations with respect to the proposal for expansion of the LLLT program into the creditor/debtor area, as well as several suggestions to better tailor any expansion of the LLLT program into this area from the perspective of practitioners already offering services in this area.

Currently there are 1,045 Washington licensed attorneys who list Creditor-Debtor as an area of practice, 815 attorneys who list consumer law as an area of practice, and 1,094 attorneys who list bankruptcy as an area of practice. These practitioners are on the front line working with low income homes to address the issues that prompted the proposed expansion of the LLLT Program. As the number of attorneys indicates, there is already a substantial number of professionals who stand ready, willing, and able to render assistance the proposed expansion would include. While access for low income families is an important issue, the lack of access to justice does not appear to be an issue stemming from lack of sufficient assistance being available.

CD has formed a subcommittee tasked with responding to the proposed expansion in an effort to help the proposed expansion target the constituencies it purports to assist based on the practical knowledge the day to day practice in these areas entails. The subcommittee was comprised of attorneys who represent both creditors and debtors, a mix of attorneys handling large corporate Creditor-Debtor cases and attorneys handling smaller consumer related cases, from varying firms by both size and location, and a Federal Bankruptcy Judge. The subcommittee is still reviewing the empirical evidence the proposed expansion relies on, and we may be submitting additional comments after the review of the data is complete.

CD is supportive of actions to increase access to legal services for low income individuals. This response refers only to low income individuals as middle income is never defined in the studies relied upon, and that constituency is currently served by consumer creditor

or debtor practitioners in the State of Washington. CD believes the proposed expansion will not achieve increased access to legal services for low income individuals because:

1. The proposed expansion fails to address concerns that would arise from existing federal and state regulations of this area of law;
2. The proposed expansion is not tailored to address the identified need for legal services;
3. The proposed expansion fails to acknowledge alternative avenues to address the problems that already exist, or changes that could be made to the existing system to meet the need of the targeted constituency.

THE EXISTING REGULATORY STRUCTURE UNDER STATE AND FEDERAL LAW

Regulations at both the state and federal level make the proposed expansion difficult absent some legislative coordination with the expansion. For example, limitations imposed under federal law as it relates to bankruptcy filings are presumably the reason proposed allowed bankruptcy services from LLLTs are quite limited. However, the Bankruptcy Code is not the only federal law covering the areas the proposed expansion would cover. For example, the Credit Repair Organizations Act, 15 U.S.C. §§1679-1679 would apply to LLLTs practicing in the areas under the proposed expansion, and would prohibit LLLTs from certain actions, compel disclosures, and impose restrictions on a LLLT's ability to enter into contracts with potential clients. Under state law, Debt Adjusting, RCW 18.28.010-900, Collection Agencies, RCW 19.16.100-960, and Credit Services Organizations Act, RCW 19.134.010-900, would all be applicable to LLLTs. The above-referenced statutes would impose additional compliance overhead, and create the potential for exposure to personal liability for failure to comply with the various statutory regimes, for LLLTs working in the proposed expansion areas. This would increase the cost LLLTs would have to charge for their services because they would not have the benefit of the exemption for attorneys created in the various statutes. This is not necessarily an exhaustive list of statutes that are implicated in the proposed expansion, and there are additional federal and state regulations that are potentially implicated as well.

While the LLLT Board considered some regulator schemes, such as the Fair Debt Collection Practices Act, it does not appear to have addressed the impact of several of the various statutory regimes that would be applicable, absent a statutory exception similar to the exemption for attorneys. In order to address these issues, the LLLT Workgroup needs to consider further refinements to the authorized scope, and the need for legislative enactments before proceeding with the proposed expansion to avoid unintended consequences for LLLTs.

SCOPE OF PROPOSAL TOO BROAD

While the asserted aim of the proposed expansion embraces a goal all interested parties would like to accomplish (increasing access to justice for low income individuals), the proposal is unlikely to meet this need based on the potential problems identified in this letter. CD also believes the proposed expansion will have unintended consequences harming attorneys because of a lack of a system to pre-qualify individuals seeking to utilize these services, and the use of an inflated cap on the amount that can be in controversy for an LLLT to assist.

One concern that was addressed at the Meeting was the lack of any means testing to qualify individuals for representation by LLLTs in order to justify the proposed expansion of the LLLT practice areas. Without a means testing requirement, the stated goal of the proposed expansion rings hollow. LLLTs will simply be a lower cost alternative to lawyers for anyone seeking legal guidance, not just low income individuals who is supposed to be the targeted population.

Another concern raised at the Meeting was the proposed dollar limitation of \$100,000.00. This amount is, in almost all situations, well over the dollar amount low income individuals have in a single obligation (student loans and mortgages notwithstanding). A more workable limitation would be to utilize the \$5,000.00 jurisdiction amount of small claims courts or an amount that is at least close to that amount.

Furthermore, the method of determining what the “value” of a debt is should be clearly delineated. The proposed expansion does not indicate whether this amount is based on the principal, a combination of principal with accrued unpaid interest and fees, or the amount in controversy (which may include additional amounts for attorney’s fees and costs) or for each debt or the total multiple debts for which assistance is being sought. Any finalized proposal must contain explicit instructions on calculating the dollar cap LLLTs can assist with. It is also important to note that on the creditors’ side, debt collection is more complex than many would think. LLLTs acting to collect debt would, like lawyers, be subject to provisions of the Fair Debt Collection Practices Act, the Fair Credit Reporting Act, and state consumer protections in these areas. Compliance with these legal requirements is fraught with perils even for seasoned lawyers.

ALTERNATIVES ALREADY EXIST TO MEET THE IDENTIFIED NEED

As described in the empirical evidence in the proposed expansion, and discussed at the Meeting, there are already services available to low income individuals for services in this area. For example, the Washington State Bar Association (Low Bono Section) and the King County Bar Association already provide moderate means programs for low income individuals. For example, the King County Bar Association already operates legal clinics to address the concerns used to justify the LLLT expansion. The Spokane County Bar Association has a volunteer lawyers program that can provide many of the services proposed to be provided by LLLTs, without cost. There are also several federal and state government agencies and approved non-profit agencies that will assist consumers in loan modifications and budgeting services at no charge. These services are in addition to the services the LLLT Board identifies in the proposed expansion, and the legal clinics at all three of the ABA approved law schools in Washington State. While there is no disputing the need for additional access to justice for low income individuals, there is no evidence or analysis to support the conclusion that expanding the LLLTs practice to include services that are already available would provide any meaningful additional relief for the issues the proposed expansion alleges to target. This conclusion is buttressed by the conclusion by the LLLT proposal identifying that one of the largest hurdles to individuals seeking legal assistance with consumer related issues are either not knowing services exist or lack of trust in the entities providing such services. Nothing in the proposed expansion adequately addresses why LLLTs would be any different than those services already available.

Additionally, the limitations on LLLTs ability to consult in various areas of law that may be related to the issues a client is facing raises the specter that LLLTs would be unwilling or unable to effectively refer matters to attorneys if the attorney could provide better assistance to the LLLT's client.

Furthermore, consumer creditor-debtor attorneys have the ability to serve the need the proposed expansion seeks to address. Most consumer bankruptcy attorneys, for example, provide free initial consultations of between 30 minutes and an hour for prospective clients, and all have relatively modest hourly rates, and reasonably priced flat fee products for more routine matters. These practitioners could also assist in achieving the goal of expanding access to justice for low income individuals if WSBA focused on revising the Rules of Professional Conduct ("RPC") regulations for advertising of services to bring costs down for practitioners and clients. The RPC limitations on advertising their services is nearly identical to LLLT Rules of Professional Conduct (LLLT RPC"), as noted in official comment [1] to LLLT RPB 7.1. These very limitations on advertising are part of the identified issue with low income individuals' ignorance of available assistance which call into doubt the efficacy of the proposed expansion.

Another change to the RPCs that would allow attorneys in this area the ability to more cost-effectively assist in this area is more leeway in "unbundling" services under the RPCs. While the LLLT RPCs explicitly limit the scope of representation to specific areas, the RPCs applicable to attorneys take a different approach by limiting what services an attorney can unbundle from representation. By affording additional latitude for attorneys to unbundle service, the identified need for low income individuals could better be met by decreasing the cost of services attorneys could offer for simple cases, while ensuring a client has the same quality of representation, without the interim step of retaining the LLLT.

With respect to the area of bankruptcy, the primary service proposed to be provided by LLLTs would be initial counseling and then referral to a bankruptcy attorney. Currently, the vast majority of debtors' attorneys provide the initial counseling free of charge. Thus, the LLLTs would be charging clients for services that the clients could receive free of charge. This is antithetical to the goals of the Board's proposal. More education of consumers regarding bankruptcy services that are already available would seem to be more effective. Furthermore, practice in the area of bankruptcy by non-lawyers is specifically addressed in the Bankruptcy Code, and would therefore preempt any authorization by the WSBA for LLLTs to practice in the bankruptcy area.

RECOMMENDED REVISIONS TO PROPOSAL

While CD has significant reservations about the expansion of the LLLT program into the Consumer, Money, and Debt Law, we recognize the need for additional access to justice for low income individuals. If LLLTs are going to be authorized to practice in this area of law, for the reasons set forth above, CD recommends the following be incorporated into any final rules permitting such practice:

1. Potential clients should be subject to some form of means testing to ensure the goal of the expansion is met. CD believes the appropriate amount is 200% of the poverty level.
2. LLLTs should only be authorized to assist with debts within the same dollar limitations applicable to claims in small claims court or an amount close to that.
3. LLLTs should only be authorized to represent natural persons, and not business entities.
4. LLLTs representation should be limited only to debtors.
5. Undertake a review of the RPC to consider changes that would allow more flexibility for attorneys to address the identified needs through the relaxation of rules on the unbundling of services and/or advertising to enact changes in concert with the potential expansion of the LLLT program.
6. Revision of the proposal, in consultation with CD, to address the various statutory and regulatory regimes applicable to the proposed expansion practice area.
7. Removal of the Bankruptcy Awareness and Advice area from proposal in any final proposed expansion.

In addition to the matters cited above, there are some practice areas included in the Board's proposal that do not neatly mesh with the money and debt areas proposed. For instance, the proposal includes personal restraint matters and the like. Most creditor debtor attorneys do not also practice in these areas, and thus, the Board's proposal would create LLLT practitioners engaged in incongruent practices. We have concerns about the breadth of practice by individuals who do not have formal law school training. It seems to us that the more focused the LLLTs can be, the more value they will have to their clients.

/s/ Thomas S. Linde
Thomas S. Linde; Chair
WSBA Creditor-Debtor Executive
Committee

/s/ Kevin D. O'Rourke
Kevin D. O'Rourke; Chair-Elect
WSBA Creditor-Debtor Executive
Committee

Cc: WSBA Board of Governors
c/o Margaret Shane
margarets@wsba.org

Draft for Discussion and Comment:

Consumer, Money, and Debt Law
Proposed New Practice Area for Limited License Legal Technicians

Summary

The Limited License Legal Technician (LLLT) Board invites comment on a proposed new practice area: Consumer, Money, and Debt Law. This new practice area is designed to provide economic protection for the public and to provide legal assistance for certain financial matters, with a focus on consumer debt issues and other problems which contribute to consumer credit problems. For example, LLLTs licensed in this practice area would be able to assist clients with issues related to legal financial obligations, debt collection and garnishment defense, identity theft, preparing for small claims court, and filing protection orders.

Introduction

The practice area was developed by a New Practice Area Committee of the LLLT Board in a workgroup chaired by LLLT Board member Nancy Ivarinen. The workgroup is requesting input from other interested parties prior to formalizing the request to the Supreme Court.

While researching new practice areas for LLLTs, the workgroup considered:

- whether the new practice area would increase access to justice for potential clients with moderate or low incomes;
- whether there is a demonstrable unmet legal need in that area;
- whether it's possible to include consumer/client protection for those who use LLLTs;
- whether the new area would provide a viable practice so LLLTs can afford to maintain a business;
- whether the substantive practice area classes can be developed and taught by the law schools in a three-class series, one per quarter, for five credits each; and
- whether there are experts available to help develop the curriculum and teach the classes.

In order to appropriately vet the potential new practice areas, the workgroup considered:

- statistics and reports discussing the legal need;
- comments by invited subject matter experts who explained what the practice areas entail;
- comments by these experts on what the LLLT could potentially do;
- committee discussion about the LLLT being properly trained in a limited scope within the practice area; and
- whether the practice area could be regulated appropriately so that the needs of the clients would be met, while also assuring that the clients would be protected.

The Better Business Bureau (BBB), the Attorney General's Consumer Protection Division, the Federal Trade Commission, and some organizations funded by United Way offer services related to consumer debt, such as debt management, debt renegotiation; and changing the behavior of businesses that prey upon low and moderate income consumers.

These services have been in existence for decades, and yet the demonstrated need in the Civil Legal Needs Study clearly shows that consumers with debt related legal issues are unaware of these services, do not believe these organizations can or will help them, have not been helped when using these services, or have needs that exceed the scope of the services these organizations can provide.

The proposed practice area is intended to help meet these significant unmet legal needs while giving LLLTs additional practice area options for expanding their businesses.

Evidence of Unmet Need

The starting point of the workgroup's analysis was identifying the unmet need that could be addressed by LLLTs licensed in a consumer law practice area. The workgroup found convincing evidence supporting the existing legal need for consumer law assistance in studies conducted at both the state and national levels. The workgroup also looked at statistics received from county-based volunteer legal services providers and the statewide Moderate Means Program, which demonstrated a consistent legal need in the consumer law area among low and moderate income people.

Statistics from State and Federal Studies

- The 2003 (Statewide 0-400% of Federal Poverty Level) and 2015 (Statewide, 0-200% of Federal Poverty Level) Civil Legal Needs Studies identified Consumer, Financial Services, and Credit among the three most prevalent problems that people experience and seek legal help to address. There was an increase in legal need in this area from 27% to 37.6% between 2003 and 2014.
- The Legal Services Corporation June 2017 Report: The Justice Gap (National, 0-125% of Federal Poverty Level) identified consumer issues as the second highest problem area for people at this income level.

Moderate Means Program Data

- The WSBA Moderate Means Program (Statewide, 200-400% of Federal Poverty Level) identified consumer issues as the second highest problem area. In addition, data provided by the program showed that consumer law represented 10% of the 2,321 requests for service from October 26, 2016 to October 27, 2017. Of the 233 consumer law requests, 74 related to bankruptcy or debtor relief and 71 were in collections, repossession, and garnishment.
- Data from the Moderate Means Program on requests for service from January 1, 2015 through May 1, 2017, show 523 of 3,062 requests for service in consumer law matters, about 17% of the total requests over that 28 month period.

Statistics from Volunteer Legal Service Providers

- The King County Bar Association's Neighborhood Legal Clinics 2016 data showed that 15% (1,298 of 8,259) of legal issues addressed at the clinic were consumer law related.
- From 2012-2017 the King County based Northwest Consumer Law Center received 2,499 requests for service, all directly related to consumer law needs.
- Over the last three years, the Tacoma-Pierce County Bar Association Volunteer Legal Services had an average of 160 clients per year visit their Bankruptcy Clinic and an average of about 43 clients per year attend the Foreclosure – Home Justice Clinic.

How LLLTs Can Meet the Legal Need

When reviewing the Civil Legal Needs Studies, the workgroup noted that it was unclear whether or not legal assistance would materially address the consumer law problems the subjects were reporting, and if so, whether that assistance could be provided through some method other than direct representation exclusively by a lawyer.

The workgroup discussed many examples of consumer legal problems that may not have a legal remedy, such as a debt collection lawsuit where the money is owed. While discussing each example, the workgroup saw advantages to providing the consumer with legal advice, even if there did not appear to be a legal resolution to the issue. For example, in a debt collection lawsuit, the statute of limitations on collection of the debt may have passed, so the debtor may not be obligated to pay even though the debt is owed. For those debtors who do have defenses or where collection agencies are attempting to collect a legitimate debt in an unfair or illegal manner, a LLLT could be a valuable consumer protection tool. Even for consumers who have no defense to a lawfully pursued debt collection lawsuit, having the assistance of a LLLT throughout the process of responding to a lawsuit would speed judicial efficiency, as the defendant would understand the procedures and be able to respond in an appropriate and strategic way.

The extensive collection of self-help resources offered on washingtonlawhelp.org regarding consumer debt confirms that many consumers already face this issue pro se, and would undoubtedly benefit from consulting with an affordable provider of legal services in this area.

The workgroup enlisted the advice of practitioners and other experts in the various areas of law to identify the legal work which could be effectively performed by LLLTs and provide an economically sustainable practice area. The workgroup identified that Consumer, Money and Debt Law LLLTs should be able to:

- offer advice regarding all identified topics
- fill out certain forms
- engage in limited negotiation in regard to particular issues
- attend specific hearings to advise the client and assist in answering procedural questions

- attend depositions
- prepare paperwork for mediation, and
- attend any administrative proceeding related to the practice area.

The workgroup carefully weighed the pros and cons of each of the above actions and determined that allowing this range of actions would greatly increase the quality of service that LLLTs could provide to their clients.

Target Clients and Scope

The target clients of this practice area are moderate and low income people with consumer debt or credit problems, or those to whom a small amount of debt is owed. The workgroup narrowly prescribed the focus of the recommended scope in order to provide a maximum benefit to these clients. The workgroup also identified limitations designed to ensure that LLLTs will provide service to consumers who currently do not have resources in this area.

The *2015 Civil Legal Needs Study* noted that the average number of legal problems per household has increased from 3.3 in 2003 to 9.3 in 2014. In addition, the legal problems that low-income people experience are interconnected in complex ways. Consumer debt, for example, can be exacerbated by landlord/tenant issues, divorce, identity theft, lack of access to benefits, problems with an employer, lack of exposure to options such as bankruptcy, and domestic violence and other protection orders.

The workgroup thought holistically about this range of issues which often go hand in hand with consumer debt and credit problems and identified a range of actions which could appropriately be performed by a LLLT in the areas of protection orders, bankruptcy education, wage theft, and identity theft. Including these areas as part of the consumer law relief a LLLT will be able to provide will allow LLLTs to proactively help their clients to break the cycle of debt creation.

Proposed Consumer, Money, and Debt Law LLLT Practice Area

Scope	Proposed Permitted Actions & Proposed Limitations
Legal Financial Obligations (LFOs)	<i>Proposed Permitted Actions:</i> Assistance filling out forms (e.g., Motion for Order Waiving or Reducing Interest on LFO, Order to Waive or Reduce Interest on LFO)
Small Claims	<i>Proposed Permitted Actions:</i> Assistance preparing the Notice of Small Claim, Certificate of Service, Response to Small Claim, Small Claims Orders, Small Claims Judgment, and counterclaims Preparation for mediation and trial Obtaining and organizing exhibits

Student Loans	<p>Proposed Permitted Actions:</p> <p>Negotiation of debt or payment plans</p> <p>Modifications, loan forgiveness and debt relief</p> <p>Discharge</p>
Debt Collection Defense and Assistance	<p>Proposed Permitted Actions:</p> <p>Negotiation of debt</p> <p>Assistance filling out Complaints, Answers and Counterclaims</p> <p>Affirmative Defenses including Statute of Limitations defenses</p> <p>Reporting Fair Debt Collection Act violations, including statute of limitations and state collection agency statute violations</p> <p>Reporting to Regulatory Agencies</p> <p>Proposed Limitations:</p> <p>LLTs can assist only with debts valued at less than the jurisdictional limits set by the District Court (\$100,000)</p>
Garnishment	<p>Proposed Permitted Actions:</p> <p>Negotiation</p> <p>Voluntary Wage Assignments</p> <p>Assistance filling out forms (Application for Writ of Garnishment, Continuing Lien on Earnings, Return of Service, Notice Exemption Claim, Release of Writ of Garnishment, Motion and Cert. for Default Answer to Writ of Garnishment, Application for Judgment, Motion/Order Discharging Garnishee, Satisfaction of Judgment)</p> <p>Exemption Claims, including assistance at court hearings</p> <p>Proposed Limitations:</p> <p>LLTs can assist only with debts valued at less than the jurisdictional limits set by the District Court (usually \$100,000)</p> <p>LLTs may render legal services for debt collection only when there is a direct relationship with the original creditor and may not act as or render legal services for collection agencies or debt buyers as defined under RCW 19.16.</p> <p>No prejudgment attachments</p> <p>No executions on judgments</p>

Identity Theft	<p>Proposed Permitted Actions:</p> <p>Advise regarding identity theft</p> <p>Best practices for protecting information</p> <p>Contacting credit bureaus</p> <p>Reporting to law enforcement and other agencies such as Federal Trade Commission</p>
Wage complaints and Defenses	<p>Proposed Permitted Actions:</p> <p>Representation in negotiations or hearings with Labor and Industries</p> <p>Accompany and assist in court</p> <p>Advice and reporting regarding Minimum Wage Act</p> <p>Advice and reporting regarding Fair Labor Standards Act</p> <p>Actions permitted under RCW 49.48 (Wages-Payment-Collection)</p> <p>Actions permitted under RCW 49.52 (Wages-Deductions-Contributions-Rebates)</p> <p>Proposed Limitations:</p> <p>LLTs may not represent clients in wage claims which exceed the jurisdictional limit set by the District Court (\$100,000)</p>
Loan Modification & Foreclosure Defense and Assistance	<p>Proposed Permitted Actions:</p> <p>Accompany and advise in mandatory mediation process</p> <p>Assist with non-judicial foreclosure actions and defenses under RCW 61.24.040</p> <p>Advise regarding power of sale clauses and the Notice of Sale Right of Redemption</p> <p>Proposed Limitations:</p> <p>LLTs would be prohibited from assisting with non-judicial foreclosures if the LLT does not meet the requirements of RCW 61.24.010.</p> <p>No judicial foreclosures</p>
Protection Orders	<p>Proposed Actions:</p> <p>Selecting and completing pleadings for Protection Orders for domestic violence, stalking, sexual assault, extreme risk, adult protection, harassment, and no contact orders in criminal cases</p>
Bankruptcy Awareness and Advice	<p>Proposed Actions:</p> <p>Explain the options, alternatives, and procedures as well as advantages and disadvantages</p> <p>Refer to budget & counseling agency</p> <p>Refer to bankruptcy attorney</p> <p>Proposed Limitation:</p> <p>No assistance with bankruptcy filing in court</p>

The LLLT Board will coordinate with the Washington law schools in the development of the practice area curriculum and ensure that appropriate faculty is available to teach the curriculum. The LLLT Board may modify the proposed practice area based on:

1. consideration of public comments;
2. issues discovered during the drafting of new practice area regulations; and
3. issues that arise during the law schools' development of the practice area curriculum.

Please provide comments to the LLLT Board via email to LLL@wsba.org by July 16, 2018.

Jaimie Patneau

From: Damian Mendez <mendezlaw@gmail.com>
Sent: Tuesday, August 07, 2018 7:54 PM
To: Limited License Legal Technician
Subject: Comment on proposed LLT practice area of wage Complaints and Defenses

Follow Up Flag: Follow up
Flag Status: Completed

Dear LLT Board,

On July's issue of NW Lawyer I was surprised to find out that the LLLT Board is planning to create a practice area for Licensed Technicians to practice in the area of wage complaints. My understanding is that the Board was identifying areas of the law where people were underserved because attorneys did not take those cases. The area of wage claims, especially wage claims with values of less than \$100,000, is an area in which I have for years routinely represented people that were not paid what they were owed. Many times I have represented several employees at the same time. The cases are hard fought and I have taken them all the way to **jury trial**. I know several attorneys that practice in this area and with cases that fall in the \$100,000 range. Wage claims are a complex area of the law that involves strategies that need an attorney to also have knowledge of other areas of the law to ensure that his/her clients are paid.

Many of these cases that appear to have small value are also litigated as class actions. I know of many attorneys that also practice in that area.

I don't believe that many of the WSBA member that practice in this area are aware of the proposal. I myself only found out by chance while browsing NW lawyer. I oppose the creating of an LLLT in that area and would like to have the opportunity to give a live presentation to the Board and perhaps talk to other attorneys that share my opinion. If the WSBA has identified a large underserved population perhaps is a matter of advising people that there are attorneys that can represent people with small wage cases, not to create a situation where technicians, without in depth knowledge of collateral areas of the law, are practicing at a substandard level and competing with WSBA members. Furthermore, I was for years part of the King Count Bar referral service and I never received referrals for small wage cases. I would like to see what specific wage cases were identified as being part of an underserved area of the law.

Please let me know about how I can attend a meeting of the board that I can expand on my view of the proposal.

Thank you.

--

Damian Mendez
Attorney
Mendez Law Group, PLLC
PLEASE NOTE NEW ADDRESS:*****
811 1st Ave. Suite 340

Seattle, WA 98104

Phone (206)290-5148 Fax (206)260-9010

damianmendezlaw.com

dmendezlaw.com

Jaimie Patneau

From: Jonathan Baner <jonathan@banerbaner.com>
Sent: Tuesday, August 14, 2018 2:20 PM
To: Limited License Legal Technician
Subject: Expanded practice area LLT for consumer/debt law

Follow Up Flag: Follow up
Flag Status: Completed

I note that there is an ongoing discussion.

About me:

I represent hundreds of consumer debtors at a firm I am of-counsel with. Mostly we look for errors from creditor counsel and try to settle the debts. Lots of client counseling. On the other side of it I represent individual and corporate creditors in collection matters including post-judgment enforcement. Routinely other attorneys hire me to assist in judgment enforcement.

My concern about LLT for or against collection is the FDCPA, FCRA, Bankruptcy, and state collection law all interact in not at all clear ways. Many an LLT can find themselves subject to FDCPA as collectors. That's some training that LLT should need.

As far as state collection go in the form of garnishment: it isn't complicated. I don't know that attorneys are charging high rates for doing them as it isn't really complicated and the statute provides for award of \$300 in attorney fees (thus I think most of us just charge \$300 flat). A garnishment often leads to motion to vacate when a default judgment is involved (and it frequently is). Such a motion will come up quickly, so my only real concern would be that a LLT might end up having a client trusting them to handle interest or defenses when they probably cannot do so.

I believe there is some discussion about LLT handling BK advice. This is just a no-go. This is federal law of immense complexity with more pitfalls than coherent paths.

--

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Jaimie Patneau

From: Vanessa Zink <vanessa.zink@gmail.com>
Sent: Tuesday, August 14, 2018 3:23 PM
To: Limited License Legal Technician
Subject: LLLT Practice Areas for Consumer, Money & Debt law

I fully support the Creditor/Debtor Section Executive Committee's response and proposal regarding proposed expanded practice areas for LLT's in the area of Consumer, Money & Debt Law. In particular, I feel that any areas that touch on federal law would be sorely under-represented by an LLT potentially leaving the most vulnerable clients unprotected/facing unforeseen liabilities. Personally I believe allowing such representation by LLT's would be grossly negligent and far from the best interest of the consumer.

Vanessa Zink
Attorney at Law

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Jaimie Patneau

From: Barry Meyers <barry@elderlaw-nw.com>
Sent: Thursday, August 09, 2018 12:42 PM
To: Limited License Legal Technician
Subject: Proposed Consumer, Money and Debt Law LLLT Practice Area

Follow Up Flag: Follow up
Flag Status: Completed

My comments are directed to adult protection orders under the Proposed Actions for Protection Orders of this proposal.

First, you need to distinguish who is the petitioner: the victim or an interested third party. Will an LLLT represent either? Do Court Facilitators already offer some assistance with these orders?

I have participated in numerous contested adult protection order matters under RCW 74.34 and other sections of the code. Most of these are initiated by interested third parties. Many of these matters require numerous court hearings, gathering of evidence, calling lay or professional witnesses and examining them (or cross examining witnesses) before a judge or commissioner, and, crafting orders or relief (to name a few) that require expertise that an LLLT may not have.

I would be very careful in allowing LLLTs to undertake such representation. Good intentions may result in bad outcomes.

Barry M. Meyers, CELA
Elder Law Offices of Barry M. Meyers, P.S.
Certified since 2003 as an Elder Law Attorney
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Jaimie Patneau

From: Edgar Hall <edgar@wadebtlaw.com>
Sent: Tuesday, August 14, 2018 9:20 AM
To: Creditor Debtor Section
Cc: Limited License Legal Technician
Subject: Request for comments on new LLLT practice area for Consumer, Money, & Debt Law

Follow Up Flag: Follow up
Flag Status: Completed

Listmates,

If you have an opportunity, please submit any comments (for or against) regarding this new LLLT practice area for Consumer, Money, and Debt Law. The email for comments is:

lllt@wsba.org

There are numerous areas that are state law specific, low chance for serious malpractice, and low levels of controversy that (in my opinion) absolutely make sense as proposed. I sincerely hope that if this practice area is approved, that Washington residents can get help in these areas as it is desperately needed.

- Assistance on LFO's (particularly reduction of interest)
- Small Claims
- Garnishment
- ID Theft
- Protection Orders

There are, though, numerous areas so integrated with federal law or so tightly intertwined as a mix of state and federal law, that I do not believe the LLLT program limitations can provide for the proper advice and representation of Washington citizens. This includes:

- **Bankruptcy Awareness & Advice** (How can you advise about something you cannot advise about? The best here is a handout without analysis, this is dangerous at best)
- **Debt Collection Defense** (could not advise on federal claims like FDCPA, FCRA, TCPA, etc, bankruptcy options, etc)
- **Foreclosure Defense** (an area ripe with federal issues, securitization issues, FDCPA, bankruptcy, etc).
- **Loan Modifications** (same as foreclosure)
- **Student Loans** (could not advise on bankruptcy options, hardship discharge options, issues under the Higher Education Act, FDCPA actions, FCRA actions, servicing violation, securitization issues, etc)
- **Wage Complaints** (I lack the knowledge of this area personally, but I am fairly certain a good amount of federal claims are involved potentially)

As a debt defense attorney (and I mean more than bankruptcy but actually filing RCW 19.16, FDCPA, and other claims), I know debt defense is far more than state law allows and if properly done is an amalgam of knowing bankruptcy options, threat of federal and state litigation, using those threats as leverage in a settlement, and knowledge of other options.

My issue is the LLLT program and WA state have the right to authorize whoever they want to practice state law. But the inability to practice federal law is near fatal and given the nature of compulsory counterclaims, tight statutes of limitation windows on most federal claims, and the sheer amount on the line of the value of houses or large debts, it is an almost impermissibly high risk of malpractice. I am concerned that the solution may cause more harm than good.

There are other ways to assist.

- Require debt collectors to prove up their debt much like eviction show cause hearings do that you have a prima facie case. Just saying John Doe owes \$5k is at the absolute outer boundary of notice pleading. I cannot count the number of clients who call to make sure the complaint is real and not a scam.
- Enhanced service of process requirements on debt collection or statutory penalties for sewer service and higher bond for process servers. About 80% of my clients claim to have not been served. I frequently see ancient addresses from date of application rather than a realistic address derived from a proper skip trace being used. The problem typically is a combo of sewer service and the difficulty/expense of vacating a default judgment. Throwing a horde of LLLT's doesn't solve the problem, it just grinds the sausage meat even faster.
- More pro bono dollars and programs, like NWJP or NWCLC, neighborhood legal clinics, etc.

I know as a former creditor attorney, I would be salivating that this would pass as two thirds of the defenses I would fear most (FDCPA claims and bankruptcy discharge) would be off the table and outside of the toolbox for advice or representation of a LLLT opposing.

In any case, you don't have to agree with me and feel free to tell me off if you don't. Just get the WSBA your comments so hopefully concerns (or praise) are heard from those who actually practice in this area. I have a sense that in an echo chamber, this new practice area seems fantastic. In reality, I do not believe that some aspects of this can be pulled off without the ability to advise on federal law or practice in federal courts. This does not even address malpractice concerns for LLLT's operating in this area.

-Edgar

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July 16, 2018

Cindy Phillips
Judicial Administrative Assistant to
Chief Justice Mary E. Fairhurst
Washington State Supreme Court

Re: LLLT Expansion Proposal

Dear Ms. Phillips:

Please provide this letter to the Justices of the Washington Supreme Court for their consideration.

At the time that I started to be active in the Family Law section and started attending meetings of the WSBA Board of Governors, the Family Law section's opposition to the LLLT program was well-known. Detailed comments had been submitted by individuals and the section executive committee for several years. Nonetheless, I approached the subject with an open mind. I write today as an individual member and not as a representative of the Family Law Section. It is a continuing concern that issues are raised without adequate time for Section Executive Committee's to discuss and formulate detailed responses. This letter has not been reviewed nor approved by the Family Law section; I speak only for myself.

I comment today against the proposed expansion of the LLLT program into debt issues or any other subject area. The presently considered expansion seems truly ill-advised. As another attorney stated in a listserve email recently "the fact that many lawyers don't know how to do this stuff and/or do it badly is not an argument that other people who don't have a law school education should be taught it so they can represent people." Another said with regard to the LLLT program, "the cost was incredibly high for the number of people who are licensed, and I can't believe that anyone would want to replicate that result with other disciplines...FDCPA stuff is so insanely complicated that very few lawyers really understand it...."

While there are consumer and/or debt issues that the low income public struggles with, the LLLT program that is being considered is clearly headed for failure. The LLLT Board itself said that "it was unclear whether or not legal assistance would materially address the consumer law problems ... and whether that assistance could be provided through some method other than direct representation exclusively by a lawyer." The LLLT Board also reported that significant advice already exists through the Northwest Justice Project site washingtonlawhelp.org. Yet the recommendation continued to be pushed forward.

The LLLT Board recommendation is that LLLTs be able to assist with RCW 10.82 Motions re Interest in LFOs. These apply to convicts trying to integrate into society. I didn't see that the LLLT Board provided any number of the people seeking help in this matter. There is a recommendation that LLLTs help with small claims court matters. There are numerous websites and materials available to help pro se parties with these small claims. Certainly paying a LLLT is not a likely priority when a person is trying to get someone to pay them \$500 that is owed. The recommendation is that LLLTs can help with debt collection not involving collection agencies. In fact, in this day and age, most collection actions involve collection agencies. There is a recommendation that LLLTs help with garnishments. Very few consumers initiate garnishment actions and there are limits on reimbursable "legal" fees. There are rarely court hearings. Packets of forms and instructions are generally available in every county and are also part of the legal forms available through the Administrator of the Courts. The recommendation regarding identity theft is also ill-advised. This information is available through the Attorney General's office at no cost. The recommendation regarding loan modifications is also somewhat laughable. These programs are very complicated and there are attorneys that specialize in it. These loan modifications are rarely granted and adding LLLTs to the mix will not improve that. LLLTs are not needed with regard to protection orders since each county is required to have people at the courthouse to help provide forms. It is not explained how they would help get no contact orders in criminal cases; this is routinely done by prosecutors at initial criminal hearings. LLLTs cannot provide meaningful help in bankruptcy issues since federal laws govern the debt counseling that consumers must obtain. The program is simply designed for failure; hundreds of thousands of dollars will be spent and any LLLT eventually trained will have few clients, if any, able to pay his/her fees.

The LLLT program is not being forthright with the WSBA membership and, perhaps, the Washington Supreme Court. The program seems to be exploring expansion into numerous fields and, is now doing so without any meaningful oversight. I have reviewed the LLLT Board meeting minutes, as much as are available. This can be difficult since I have sometimes had to prompt staff to get the minutes online. Of course, I do not know if the LLLT board is not providing their minutes to the staff on a timely basis. Most recently, the LLLT Board cancelled its April and June 2018 meetings so no minutes are available. The May 2018 draft minutes are not available either. See attached email of July 9, 2018 from Renata Garcia.

The minutes of the New Practice Area sub-committee which explores subject expansion used to be on-line. That is no longer the case. In fact, I was informed this morning that I would have to submit a public records request to get them. See the attached email of July 16, 2018 from Margaret Shane.

My review of LLLT board minutes and the New Practice Area Committee have been

revealing and startling, particularly with regard to a previously planned expansion into immigration law. The April 2018 minutes state that the LLLT program is expanding into immigration law and that they had already contacted Governor Inslee to get his support for legislation to try and “preempt” the federal law to allow local LLLTs to practice in the immigration field. This action by the LLLT program seems to have been done without the permission of the Washington Supreme Court or the WSBA Board of Governors. This attempted expansion is ill-advised and should not be encouraged or permitted. The Washington State Immigration Services page on the Attorney General website calls immigration law “one of the most complicated areas in the legal field.” ... [and] specialized training” is required...[and] the lawyer/expert must be “authorized under federal law to provide immigration services.” While it seems that this attempted expansion has been dropped, the LLLT board seemed to have acted improperly by going to the Washington State Governor without the support of the BOG or the Supreme Court.

I also ask the Washington Supreme Court to demand some answers from the LLLT board. Such answers should be in writing and made available to WSBA members. How many LLLTs are presently in practice and whom are they representing? What are they charging? While their fees may not be controlled under anti-trust considerations, the fees can certainly be used to determine whether this program is meeting the needs of low-income people. What is the goal of the LLLT program?

I am concerned that the LLLT program seems to be operating without true and objective oversight or administration. The meeting with the Governor’s office involving the Executive Director, Paula Littlewood, is a prime example. It is troubling that this action was not disclosed in her monthly activity reports. She apparently had two BOG members with her but this action was not reported in their monthly activity reports provided to the BOG and the membership. The Executive Director report of January 12, 2018 makes no mention of LLLT issues at all. Steve Crossland’s report to the Board of Governors of January 4, 2018 discusses proposed expansion of the LLLT Family Law work and needed amendments to APR 28 and RPCs but no mention of immigration or consumer debt expansion.

How was it acceptable for these people to go to the Governor to lobby for changes in the law? Sections are not allowed to make any public statements without approval of the WSBA yet a meeting was apparently conducted with the Governor of this state without any such prior approval. Making public statements on the LLLT program and potential expansion without any report of the meeting to the BOG means that the BOG and the membership is being denied information that it should have.

I have another concern about the LLLT program and its administration. The program is marketed enthusiastically by Paula Littlewood and Steve Crossland. It is an open secret that they are involved in a personal relationship. This is a delicate issue that seems to be ignored. I do not easily raise this issue; it should be personal and private. But, it cannot be ignored in this circumstance. I do not see how the program can be administered by the WSBA appropriately under those circumstances. Paula and Steve travel to various other states and countries together “wearing WSBA hats” to talk up the LLLT program concept. I am concerned about the direct and indirect costs of their joint travel to various locales, including Hawaii and Canada. I am concerned about the appearance to the membership. It would certainly seem that the WSBA and the WSC are leaving themselves open to public criticism.

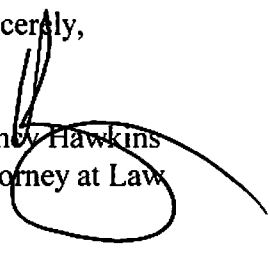
The lack of independent and objective analysis and administration by Littlewood is also clear if the WSBA website is reviewed. The website lauds the LLLT program as a way to practice law without going to law school. It is excited and enthusiastic about the program. Contrast this with the website with regard to lawyers. There is no reference to the long and distinguished role of lawyers in civil rights, or in helping people access the justice system. There is instead a dry description of the costs and burdens of becoming an attorney (fees, testing, etc.) The legal directory now lists LLLTs and lawyers in the same directory. Not only are the lines being blurred, the preference for LLLTs by the Executive Director is obvious.

It also seems that the LLLT program is described by Crossland and Littlewood in their various travels as a “success.” This seems to be an inaccurate description of the program. After years of funding, the program continues to operate at a substantial loss and has very few people working in the field. There is no proof that the program is truly meeting the needs of low-income people and, in fact, the anecdotal information conveyed at meetings is that LLLTs are charging significant rates for their work, generally comparable to attorneys. The Washington Supreme Court should require that Crossland and Littlewood provide transcripts of any speeches and copies of any written materials that either has provided with regard to the LLLT program. Their representations must be accurate and complete so that the reputation of this state bar association and the Washington Supreme Court is not harmed.

Washington Supreme Court
LLLT Expansion Program
July 16, 2018
Page 5

I think it is time for the Washington Supreme Court to take another good hard look at the LLLT program and its purpose and structure. It is time for a plan for reasonable administration. It is also time for the Washington Supreme Court to demand that the WSBA administration enthusiastically support and applaud the work of lawyers.

Sincerely,



Nancy Hawkins
Attorney at Law

cc. LLLT Board

Nancy Hawkins

From: Margaret Shane <Margarets@wsba.org>
Sent: Monday, July 16, 2018 11:10 AM
To: Nancy Hawkins
Subject: RE: LLLT New Practice Area Committee minutes

Hi Nancy –

Since minutes for LLLT committee and work group meetings are not posted on the website, it has been determined that the information you are looking for needs to be obtained through a Public Records Request. To request Bar records, please send your request to WSBA's public records officer at PublicRecords@wsba.org. Under Washington General Rule 12.4(e)(1), requests must be made in writing to WSBA's public records officer, and may not be made to other Bar staff.

Best,
Margaret



Margaret Shane | Executive Assistant

Washington State Bar Association | 206.727.8244 | fax 206-727.8316 | margarets@wsba.org
1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539 | www.wsba.org
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From: Nancy Hawkins [<mailto:nhawkins@seanet.com>]
Sent: Friday, July 13, 2018 2:10 PM
To: Margaret Shane
Subject: LLLT New Practice Area Committee minutes

These used to be on the website. Are they somewhere else now?

Nancy Hawkins
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nhawkins@seanet.com

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Nancy Hawkins

From: Renata Garcia <renatag@wsba.org>
Sent: Monday, July 09, 2018 2:55 PM
To: Margaret Shane; Nancy Hawkins
Subject: RE: LLLT Board minutes

Hi Nancy –

The LLLT Board April meeting was cancelled. The June meeting was also cancelled which means that the May meeting minutes have not yet been approved.

The meeting materials are posted on the website. Here is one way to access them:

1. <https://www.wsba.org/Legal-Community/Committees-Boards-and-Other-Groups/LLL-Board>
2. Click on WSBA Event Calendar

Meeting Materials

NB: Starting October 2017 meeting materials are linked to the meeting event item in the [WSBA Event Calendar](#). This static list was not be updated.

January 2017

February 2017

March 2017

3. Select Limited License Legal Technician Board

HOME | EVENTS CALENDAR



Updated: June 8, 2018

Filter Event

Today • • 27 July 2018						
Day	Screen	Agenda				
Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday

4. Select the month and click on the event
5. Click on the link under "Agenda"

Add to:

- Outlook
- iCal
- Google Calendar

The Limited License Legal Technician (LLL) Board

Agenda:

LLL Board Meeting Materials - March 2018

Let me know if you have any other questions.

Thank you,
Renata



Renata de Carvalho Garcia | Innovative Licensing Programs Manager

Washington State Bar Association | 206.733.5912 | renatag@wsba.org

1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539 | www.wsba.org

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From: Margaret Shane

Sent: Friday, July 06, 2018 1:49 PM

To: Nancy Hawkins

Cc: Renata Garcia

Subject: RE: LLLT Board minutes

Hi Nancy –

Renata Garcia is the person to contact for LLLT matters, but she is out of the office today. I have copied her on this email so she can contact you when she returns to the office next week.

Please let me know if you need anything further at this time.

Best,
Margaret



Margaret Shane | Executive Assistant

Washington State Bar Association | 206.727.8244 | fax 206-727.8316 | margarets@wsba.org

1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539 | www.wsba.org

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From: Nancy Hawkins [<mailto:nhawkins@seanet.com>]

Sent: Friday, July 06, 2018 10:32 AM

To: Margaret Shane

Subject: RE: LLLT Board minutes

I also don't see any board meeting materials for the past year or so on the website.

Nancy

Nancy Hawkins

Attorney at Law

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(206) 781-2570

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nhawkins@seanet.com

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From: Nancy Hawkins [<mailto:nhawkins@seanet.com>]
Sent: Friday, July 06, 2018 10:30 AM
To: 'Margaret Shane'
Subject: LLLT Board minutes

Do you have minutes for their April, May and June board meetings?
Nancy

Nancy Hawkins
Attorney at Law
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NANCY HAWKINS
ATTORNEY AT LAW

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FAX (206) 781-7014

September 14, 2018

Cindy Phillips
Judicial Administrative Assistant to
Chief Justice Mary E. Fairhurst
Washington State Supreme Court

Re: LLLT Expansion Proposal

Dear Ms. Phillips:

Please provide this letter to the Justices of the Washington Supreme Court for their consideration.

I am a 36 year member of the Washington State Bar Association. I am a proud family law attorney. I practice law in Seattle, Washington, and am a sole practitioner. Almost all of my practice is family law.

I graduated from the University of Puget Sound Law School in 1981 and was admitted to the Washington State Bar in 1982. I am also admitted to practice in the Federal courts in the State of Washington. In addition to being a member of the family law sections of the Washington State Bar Association and the King County Bar Association, I am a former chair of the King County Bar Association's Family Law Section's Legislative Committee and a former chair of the King County Bar Association's Family Law Section. I have spoken at numerous continuing legal education seminars on the subject of family law. I am a chapter author for the Washington State Bar Association's Family Law Deskbook. I have received awards for my work from the Greater Seattle Business Association as well as the King County Bar Association Access to Justice Award, and the WSBA Family Law Section Attorney of the Year award for 2017. I coordinate a neighborhood family law clinic in King County and have performed hundreds of hours of pro bono work.

Over the past two years, I have studied the LLLT situation and I write today after learning more disturbing information about the program. I urge the Washington Supreme Court to reject any expansion of the program in Consumer, Money and Debt Law, reject any expansion of the Family Law Program and, instead, examine this entire program in detail and determine its future.

Program training.

The training provided to prospective LLLTs is clearly inadequate since, according to information provided at the July WSBA Board of Governors meeting, more than 50% of the

persons taking the test fail. No information was given as to the results of those who passed. It would be appropriate to know how many barely pass, solidly pass or sail through with flying colors. It appears that the training is not being improved but, instead, the qualifications of the trainers is being reduced down. There is no indication that the LLLT Board is concerned in any way about the low passage rate and the apparent inadequacy of the training provided to date.

With such a poor passage rate, it is inconceivable to me that it would be appropriate that there would be an increase in the curriculum/program in the areas of family law to be taught. As has been demonstrated by prior submissions from the Family Law Section, family law is an extremely complex area covering a broad gamut of legal issues. Adding subjects is far more likely to further reduce the passage rate. This seems grossly ill-advised at this time.

There has been no objective determination that the LLLT program is a success in family law. After years of efforts and hundreds of thousands of dollars, there are a minimal number of independently practicing LLLTs. There has been no determination of the number of low income people actually helped by the program. In fact, it seems that most of the LLLTs work as paralegals just as they were doing prior to any certification or licensing at a LLLT. With the poor passage rate and the lack of success of the LLLT program with regard to family law, it seems further ill-advised to add any new subject area or any expansion of the existing subject area. Without objective analysis and determination of the flaws in the curriculum design, teaching methods and training overall in the family law program, the flaws are likely to be repeated in a new or expanded subject area. Expansion into a new subject area is premature, at best.

The choice of Consumer, Money and Debt Law for expansion is particularly ill-advised.

Expansion into Consumer, Money and Debt Law.

I comment again against the proposed expansion of the LLLT program into debt issues or any other subject area. The presently considered expansion seems truly inappropriate. As another attorney stated in a list serve email recently "the fact that many lawyers don't know how to do this stuff and/or do it badly is not an argument that other people who don't have a law school education should be taught it so they can represent people." Another said with regard to the LLLT program, "the cost was incredibly high for the number of people who are licensed, and I can't believe that anyone would want to replicate that result with other disciplines...FDCPA stuff is so insanely complicated that very few lawyers really understand it...."

While there are certainly consumer and/or debt issues that the low income public struggles with, the LLLT program that is being considered is clearly knowingly headed for failure. The LLLT Board itself said that "it was unclear whether or not legal assistance would materially address the consumer law problems ... and whether that assistance could be provided through some method other than direct representation exclusively by a lawyer." The LLLT Board also reported that significant advice already exists through the Northwest Justice Project site washingtonlawhelp.org. Yet the expansion recommendation continued to be pushed

forward.

The LLLT Board recommendation is that LLLTs be able to assist with RCW 10.82 Motions re Interest in LFOs. These motions apply to convicts trying to integrate into society. I didn't see that the LLLT Board provided any number of the people actually seeking help in this matter. In my 36 years of practice, including work with convicted criminals, no one has ever sought help with this kind of matter. I wouldn't think that this is a population with the funds to hire a LLLT.

There is a recommendation that LLLTs help with small claims court matters. There are numerous websites and materials available to help pro se parties with these small claims. Certainly paying a LLLT is not a likely priority when a person is trying to get someone to pay them \$500.

The LLLT Board recommendation is that LLLTs can help with debt collection not involving collection agencies. In fact, in this day and age, most collection actions involve collection agencies. If they don't initially, they surely will shortly.

There is a recommendation that LLLTs help with garnishments. Very few consumers initiate garnishment actions and there are limits on reimbursable "legal" fees. Packets of forms and instructions are generally available in every county and are also part of the legal forms available through the Administrator of the Courts.

The recommendation regarding identity theft is also ill-advised. This information is available through the Attorney General's office at no cost.

The recommendation regarding loan modifications is also somewhat laughable. These programs are very complicated and there are attorneys that specialize in it. These loan modifications are rarely granted and adding LLLTs to the mix will not improve that.

LLLTs are not needed with regard to protection orders since each county is required to have people at the courthouse to help provide forms. It is not explained how LLLTs would help get no contact orders in criminal cases; this is routinely done by prosecutors at initial criminal hearings.

LLLTs cannot provide meaningful help in bankruptcy issues since federal laws govern the debt counseling that consumers must obtain.

This proposed expansion of the LLLT program is simply designed for failure. If it is approved by the Washington Supreme Court, hundreds of thousands of dollars will be spent by the WSBA and any LLLT eventually trained and licenses will have few clients, if any, able to pay his/her fees.

LLLT family law program costs.

The Washington Supreme Court mandated the existing LLLT program and required the Washington State Bar Association to pay its costs. But, the Court also anticipated that the program would be self-sufficient in a reasonable period of time. In fact, the Court required that it do so in its Order: "[t]he Court is confident that the WSBA and the Practice of Law Board, in consultation with this Court, will be able to develop a fee-based system that ensures that the licensing and ongoing regulation of limited license legal technicians will be cost-neutral to the WSBA and its membership." June 15, 2012 Order by the Washington Supreme Court, page 11. Despite the Court's good intentions, this confidence has not been borne out.

At this point, it is six years since that order by the Court. Not only is the program not self-sufficient, it is operating at a greater loss year after year. In 2017, the program sustained a loss of \$189,508.00. It was budgeted to lose \$262,022 in 2018. The draft budget for 2019 projects a loss of \$240,000 but this figure is misleading in that it does not reflect the total cost of the program. It is my understanding that many of the costs for the program are now included in other portions of the WSBA budget so this \$240,000 appears to be artificially lowered. See page 48 of the materials for the July 2018 BOG meeting, attached hereto. I am making a request for the data necessary to determine the cost of those other line items not included in the \$240,000 (see the footnote to that same page 48). It is concerning to note that the LLLT Board claimed that its expenses, direct and indirect, for 2018 were \$17,000 and \$92,636 (see page 433 of the materials for the July 2018 BOG meeting, attached hereto.) These significant costs seem to be in addition to the \$240,000. Additional data for those expenses has also been requested.

Time for a limit.

The lawyers of Washington State pay a significant sum in license fees. Many object to the amount of fees. Many sought to hold a referendum on the amount of fees but were not allowed to do so when the Court issued an order that the fee increase that had been imposed was "reasonable." Unhappiness with the fee increase and the inability to register an opinion with the referendum still resonates with many. This is made more concerning to many when the fees paid are used to pay for unpopular and unsuccessful programs such as the LLLT program. The BOG seems to feel that they are powerless to control costs in this program since the Court has mandated the program. But, the Court did not mandate a program that would be funded at the present extent by the lawyers of the WSBA or that the program would operate at such a loss. At this point, it seems this annual substantial financial loss seems to be permanent. This concern is not abated by the July 2018 fee development. As the Court likely knows, at its July 2018 meeting, the Board of Governors recommended that the LLLT license fees be increased to that of lawyers. That increase, even if approved by the Washington Supreme Court, would not make the present program self-sufficient. There would need to be over 500 LLLTs to even come close to paying for the program for one year. There is no realistic expectation that this will ever happen, let alone happen before another \$2,000,000-\$3,000,000 in WSBA losses occur.

The LLLT program simply shows no promise whatsoever that it will EVER be self-sufficient. Its budgeted costs are approximately 35% higher for 2019 than for 2018. This cannot be sustained for even another year or two without hurting other more successful WSBA programs, a further increase in fees or staff reductions. Yet the LLLT Board and the Executive Director do not seem to be concerned about this in any way.

In the June 15, 2012 order which established the program, it was clear that the program was not necessarily permanent but that it would be "a sound opportunity to determine whether and, if so, to what degree the involvement of effectively trained, licensed and regulated non-attorneys may help expand access to necessary legal help in what that serve the justice system and protect the public. June 15, 2012 Order by the Washington Supreme Court, page 11-12. That objective analysis has never been done.

Time for a program assessment.

The LLLT program was designed to meeting the needs of low income Washingtonians. The program has provided no substantive analysis demonstrating that this goal has been met. The hourly rate charged by LLLTs is, quite simply, beyond the ability of low income people. The rates are also beyond the ability of almost all moderate income people.

After over five years of work, there are only 38 active LLLTs. I have reviewed the information available via the internet and/or the WSBA website. Most work in law firms and it is reasonable to assume that their work is little changed from that of an employed paralegal. It is likely that each of those LLLTs are being billed out at a significant rate. My review concludes that about half or less of the LLLTs are independently employed.

The needed type of assessment of the LLLT program must be done objectively. It is not reasonable to expect the Executive Director or staff under her control to conduct this objective analysis since, in fact, they have not done so. In the past several years, there have been no flags raised over the low number of active LLLTs given the funds spent and the hours of work, no flags raised over the increasing cost of the program, no flags raised over the dismal passage rate, etc. If the LLLT Board or the Executive Director have not done so by now, and given the conflict of interest posed by the personal relationship between the LLLT Board President and the WSBA Executive Director, the Court must provide a mechanism for this kind of objective analysis. Frankly, I believe that the available information should be sufficient to determine that the program is an utter failure already without any further analysis.

Lack of transparency.

I am also concerned about the large gaps in transparency about this program. The April, June, July and September 2018 LLLT Board meetings were cancelled. Without minutes from meetings, it is not possible to review the work of that Board during that time. The meetings of

the sub-committee that considers new subject areas used to be announced on the WSBA website with minutes available for review but are not any longer. My request for the minutes of the sub-committee working on new subject areas was denied. I was told I needed to make a public records request. This lack of transparency is quite troubling, particularly given the funds being expended and the demonstrably poor decision-making by the Board and the Sub-Committee from my perspective (and that of many others).

My review of the materials for the August LLLT Board meeting were troubling. The Board supposedly was given all of the comments about the program expansion but, upon review, my own prior comments were not included in the material provided. I don't know how many comments from others were withheld from the Board. The Board also commented about a letter favorable to the expansion and suggested that the author be invited to a meeting to elaborate. There seems to be little concern that the majority of responses were negative to the expansion idea.

It was also disturbing to see that the LLLT Board seems to be planning on offering scholarships to LLLTs. With a program operating hundreds of thousands of dollars in the red, even consideration of a program scholarship is inappropriate.

My review of the available LLLT board minutes and the New Practice Area Committee raise more concerns, particularly with regard to a previously planned expansion into immigration law. The April 2018 minutes state that the LLLT program is expanding into immigration law and that they had already contacted Governor Inslee to get his support for legislation to try and, in effect, "preempt" the federal law to allow local LLLTs to practice in the immigration field. This action by the LLLT program seems to have been done without the permission of the Washington Supreme Court or the WSBA Board of Governors. That attempted expansion was also ill-advised and should not be encouraged or permitted. The Washington State Immigration Services page on the Attorney General website calls immigration law "one of the most complicated areas in the legal field." ... [and] specialized training" is required...[and] the lawyer/expert must be "authorized under federal law to provide immigration services." While it seems that this attempted expansion is not presently being pursued, the LLLT board seemed to have acted improperly by going to the Washington State Governor without the support of the BOG or the Supreme Court.

The Washington Supreme Court should demand some answers from the LLLT board and the Executive Director. Such answers should be in writing and made available to WSBA members. How many LLLTs are presently in practice and whom are they representing? What are they charging? While their fees may not be controlled under anti-trust considerations, the fees can certainly be analyzed to determine whether this program is meeting the needs of low-income or moderate means people. After all, this was the intent of the LLLT program. It is odd that the Executive Director and the LLLT Board are quick to say that they cannot/will not look at the fees charged by LLLTs while allowing LLLTs to advertise that they charge one-third of that

of a lawyer. How do they make that assertion without a factual basis for it?

I am concerned that the LLLT program seems to be operating without true and objective oversight or administration. The meeting with the Governor's office involving the Executive Director, Paula Littlewood, is a prime example. It is troubling that this action was not disclosed in her monthly activity reports. She apparently had two BOG members with her but this action was not reported in their monthly activity reports either. The Executive Director report of January 12, 2018 makes no mention of LLLT issues at all. Steve Crossland's report to the Board of Governors of January 4, 2018 discusses proposed expansion of the LLLT Family Law work and needed amendments to APR 28 and RPCs but no mention of immigration or consumer debt expansion.

How was it acceptable for these people to go to the Governor to lobby for changes in the law? Sections are supposedly not allowed to make any public statements without approval of the WSBA yet a meeting was apparently conducted with the Governor of this state without any such prior approval. Making public statements on the LLLT program and potential expansion without any advance consideration of the BOG or a subsequent report of the meeting to the BOG means that the BOG and the membership is being denied information that it should have.

Promotion of the program as a success.

I am particularly concerned about the promotion of the LLLT program to other states as a success. This program has 35 people working in the field, only some of which work independently. The others work in law firms and it seems that their work is that of a normal paralegal.

This program has cost the WSBA over \$1,000,000 since its inception. It operates at a considerable loss and that loss is increasing each year. This is not a success. The program should not be "sold" to other states as a success. Doing so will only serve to lower our standing with those states when they, too, suffer such losses and failures. It is distressing that our funds are being spent by Paula Underwood and Steve Crossland to visit various other states and countries "wearing WSBA hats" to talk up the LLLT program concept. I am concerned about the direct and indirect costs of their joint travel to various locales, including Hawaii and Canada. While I have been told that their "travel costs" are not paid by the WSBA, I do not know the status of their other costs. But, even if the costs are out of the picture, I am concerned about the appearance to the membership of this joint travel. It would certainly seem that the WSBA and the Washington Supreme Court are leaving themselves open to public criticism.

WSBA approach to LLLT program.

The present Executive Director's unbalanced and unobjective support for the LLLT program compared with her tepid or non-existent support for actual lawyers is disturbingly clear

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when the new website is examined. I am proud to be a lawyer. From my childhood spent reading and watching Perry Mason and other legal shows, I have always wanted to be a lawyer. This was solidified as I became an active feminist starting at age 16 or so and has continuing for the last 46 years. I followed and studied a civil rights movement that included landmark legal cases regarding education, public facilities, marriage (interracial and gay), sexuality, privacy and many others. None of that glorious history is reflected in the WSBA website, not even a reference to Thurgood Marshall, Ruth Bader Ginsburg or, even, our own William O. Douglas. Not a mention of any landmark cases which have resulted in improved lives for millions of Americans. In fact, the website page which describes becoming a lawyer is a dry recitation of the costs and burdens of being a lawyer.


By contrast, the website pages which describe becoming a LLLT is enthusiastic and glowing and makes broad promises about a career as a LLLT.

Conclusion.

I think it is time for the Washington Supreme Court to take another good hard look at the LLLT program and its purpose and structure. If it is to continue, it is time for reasonable and unbiased administration. It is also time for the Washington Supreme Court to demand that the WSBA administration enthusiastically support and applaud the work of lawyers.

If the Court agrees with my concerns, it is likely time to end this failed program. The 35 people that are presently licensed would likely just continue as well-paid paralegals.

Sincerely,


Nancy Hawkins, a proud lawyer.

cc. LLLT Board (with enclosures)

Washington State Bar Association
Budget Comparison Report
For the Period from October 1, 2018 to September 30, 2019

LIMITED LICENSE LEGAL TECHNICIAN	FISCAL 2018 BUDGET	FISCAL 2019 BUDGET	\$ CHANGE IN BUDGET	% CHANGE IN BUDGET
REVENUE:				
TOTAL REVENUE:	<u>-</u>	<u>-</u>	<u>-</u>	
DIRECT EXPENSES:				
LLLT BOARD	17,000.00	17,000.00	-	0%
LLLT OUTREACH	8,000.00	8,000.00	-	
STAFF TRAVEL/PARKING	600.00	600.00	-	0%
TOTAL DIRECT EXPENSES:	<u>25,600.00</u>	<u>25,600.00</u>	<u>-</u>	<u>0%</u>
INDIRECT EXPENSES:				
FTE	1.70	1.55	(0.15)	-9%
SALARY EXPENSE	142,602.00	135,526.00	(7,076.00)	-5%
BENEFIT EXPENSE	49,304.00	41,592.00	(7,712.00)	-16%
OVERHEAD	42,495.00	38,095.00	(4,400.00)	-10%
TOTAL INDIRECT EXPENSES:	<u>234,401.00</u>	<u>215,213.00</u>	<u>(19,188.00)</u>	<u>-8%</u>
TOTAL ALL EXPENSES:	<u>260,001.00</u>	<u>240,813.00</u>	<u>(19,188.00)</u>	<u>-7%</u>
NET INCOME (LOSS):	<u>(260,001.00)</u>	<u>(240,813.00)</u>	<u>19,188.00</u>	

The Limited License Legal Technician (LLLT) license type (APR 28), was created by the Supreme Court and delegated to WSBA in 2012. In the past, this cost center was used to track all revenues and expenses associated with the "LLLT Program". LLLTs are now WSBA members, and consistent with the WSBA Bylaws and the Washington Supreme Court Admission and Practice Rules, the administration and regulation of these member license types has been consolidated within existing work groups and cost centers that already perform these functions for lawyers, including Admissions, License and Membership Records, and MCLE (although it continues to be possible to determine these costs separately by member type if needed). For FY19, this cost center is used primarily to track staffing and expenses related to the LLLT Board, which by court rule oversees the license.

WSBA COMMITTEE/BOARD ANNUAL REPORT – FY18

Limited License Legal Technician (LLLT) Board Chair: Steve Crossland Staff Liaison: Renata Garcia BOG Liaison: Dan Clark	Size of Committee: 15 Number of FY19 Applicants: 6 FY18 direct expenses: \$17,000 FY18 indirect expenses: \$92,636
FY18 Demographics: <ul style="list-style-type: none">• Gender (Female: Male: Not Listed): 12:2:0 (0 did not answer)• Number of members self-identified with a racial/ethnic under-represented group: 3 (0 did not answer)• Number of members self-identified as having a disability: 2 (0 did not answer)• Number of members self-identified as LGBT: 2 (0 did not answer)	
Background & Purpose: <p>The Limited License Legal Technician (LLLT) Board derives its authority from the Washington Supreme Court under Rule 28 of the Admission to Practice Rules (APR), adopted effective September 1, 2012. By order of the Court, the WSBA is to administer and fund the LLLT Board and the program.</p> <p>APR 28 authorizes persons who meet certain educational and licensing requirements to advise clients on specific areas of law. The only currently approved practice area is domestic relations. The Supreme Court established the LLLT Board to oversee the LLLT license.</p>	
Strategy to Fulfill Purpose: <p>From 2013-2016, the LLLT Board concentrated on creating the operational details for the LLLT license; the LLLT Board is now focusing on the promotion, expansion, and development of the license.</p>	
2017-2018 Accomplishments and Work in Progress: <ol style="list-style-type: none">1) In February 2018, the LLLT Board submitted suggested amendments to APR 28, the LLLT RPC and the RPC for lawyers for consideration by the Washington Supreme Court. These amendments would enhance the scope of the current family law practice area. The Court recently published the suggested amendments for comment. Comments are due by no later than September 14, 2018.2) The LLLT Board is currently circulating a new proposed practice area, Consumer, Money, and Debt, for comment before taking further action, i.e., developing curriculum requirements, seeking approval by the Court, etc. The LLLT Board hopes to engage as many subject matter experts as possible in the development of this and any future proposed practice areas.	

- 3) The LLLT Board recently approved the University of Washington Continuum College Paralegal Studies Program to teach the LLLT core curriculum.
- 4) The LLLT Board has been engaging in discussions to explore ways in which LLLT students may qualify for financial aid.

2018-2019 Goals:

- 1) The LLLT Board will continue to consider and recommend new practice areas for approval by Supreme Court.
- 2) If the family law enhancements are approved by the Court, the LLLT Board will develop the required training for currently licensed LLLTs.
- 3) The LLLT Board also plans to expand the accessibility of the LLLT core curriculum across the state by continuing to approve core class programs at additional community colleges.
- 4) The LLLT Board will continue to engage in outreach efforts, including working with the WSBA communication team to expand outreach to a diverse pool of LLLT candidates, including college and high school students.
- 5) The LLLT Board also plans to advance its efforts to provide access to financial aid for students in the LLLT practice area classes.

Please report how this committee/board is addressing diversity:

1) Are you using any of the tools provided by WSBA and if so, how? 2) Have you sought out training or consultation from the Inclusion and Equity Specialist? 3) How have you elicited input from a variety of perspectives in your decision-making? 4) What have you done to promote a culture of inclusion within the board or committee? 5) What has your committee/board done to promote equitable conditions for members from historically underrepresented backgrounds to enter, stay, thrive, and eventually lead the profession? 6) Other?

- 1) The LLLT Board seeks members from different backgrounds and experiences who work together to foster a positive work environment in concert with WSBA's commitment to diversity and inclusion.
- 2) The LLLT Board will schedule training with WSBA's Inclusion and Equity Specialist.
- 3) The LLLT Board seeks input from all WSBA members as well as the legal community in general when making important decisions such as developing a new practice area.
- 4) APR 28 has been amended at the request of the LLLT Board to allow LLLTs and LPOs as well as attorneys with judicial and emeritus pro bono status to serve as Board members.
- 5) The core curriculum educational approval process reflects the LLLT Board's commitment to diversity in that it requires any institution offering the core curriculum to have diversity, inclusion, and equal access policies and practices in place. The LLLT Board also sought to increase diversity within the LLLT profession by extending the limited time waiver (see APR 28 Regulation 4) to 2023 in order to allow a group of candidates qualified by work experience rather than by education to enroll in the practice area classes. The ongoing effort to provide a pathway to financial aid for the practice area classes also aims to provide more opportunities to join the LLLT profession to prospective applicants from diverse socio-economic backgrounds.
- 6) N/A

Please report how this committee/board is addressing professionalism:

- 1) Does the committee/board's work promote respect and civility within the legal community?
- 2) Does it seek to improve relationships between and among lawyers, judges, staff and clients?
- 3) Does it raise awareness about the causes and/or consequences of unprofessional behavior?
- 4) Other?

- 1) The LLLT Board has set up rules of professional conduct and a disciplinary system for LLLTs, as well as requiring LLLTs to carry malpractice insurance and conform to the same rules as lawyers regarding IOLTA accounts.
- 2) The LLLT Board has worked to promote LLLTs in the legal community and educate all legal professionals about the permitted scope and models for LLLT practice, as well as highlighting the ways in which collaboration with LLLTs can contribute to the efficiency and accessibility of any legal practice.
- 3) N/A
- 4) N/A

Please report how this committee/board is integrating new and young lawyers into its work:

- 1) How have you brought new and young lawyers into your decision making process? 2) Has the committee/board supported new and young lawyers by (for example) helping to find and prepare them for employment, assisting with debt management, building community, and providing leadership opportunities? 3) Other?

- 1) All WSBA members are invited to provide comments on rules and new practice area suggestions and development, including new and young lawyers.
- 2) N/A
- 3) N/A

Draft for Discussion and Comment:

Consumer, Money, and Debt Law
Proposed New Practice Area for Limited License Legal Technicians

Summary

The Limited License Legal Technician (LLLT) Board invites comment on a proposed new practice area: Consumer, Money, and Debt Law. This new practice area is designed to provide economic protection for the public and to provide legal assistance for certain financial matters, with a focus on consumer debt issues and other problems which contribute to consumer credit problems. For example, LLLTs licensed in this practice area would be able to assist clients with issues related to legal financial obligations, debt collection and garnishment defense, identity theft, preparing for small claims court, and filing protection orders.

Introduction

The practice area was developed by a New Practice Area Committee of the LLLT Board in a workgroup chaired by LLLT Board member Nancy Ivarinen. The workgroup is requesting input from other interested parties prior to formalizing the request to the Supreme Court.

While researching new practice areas for LLLTs, the workgroup considered:

- whether the new practice area would increase access to justice for potential clients with moderate or low incomes;
- whether there is a demonstrable unmet legal need in that area;
- whether it's possible to include consumer/client protection for those who use LLLTs;
- whether the new area would provide a viable practice so LLLTs can afford to maintain a business;
- whether the substantive practice area classes can be developed and taught by the law schools in a three-class series, one per quarter, for five credits each; and
- whether there are experts available to help develop the curriculum and teach the classes.

In order to appropriately vet the potential new practice areas, the workgroup considered:

- statistics and reports discussing the legal need;
- comments by invited subject matter experts who explained what the practice areas entail;
- comments by these experts on what the LLLT could potentially do;
- committee discussion about the LLLT being properly trained in a limited scope within the practice area; and
- whether the practice area could be regulated appropriately so that the needs of the clients would be met, while also assuring that the clients would be protected.

The Better Business Bureau (BBB), the Attorney General's Consumer Protection Division, the Federal Trade Commission, and some organizations funded by United Way offer services related to consumer debt, such as debt management, debt renegotiation; and changing the behavior of businesses that prey upon low and moderate income consumers.

These services have been in existence for decades, and yet the demonstrated need in the Civil Legal Needs Study clearly shows that consumers with debt related legal issues are unaware of these services, do not believe these organizations can or will help them, have not been helped when using these services, or have needs that exceed the scope of the services these organizations can provide.

The proposed practice area is intended to help meet these significant unmet legal needs while giving LLLTs additional practice area options for expanding their businesses.

Evidence of Unmet Need

The starting point of the workgroup's analysis was identifying the unmet need that could be addressed by LLLTs licensed in a consumer law practice area. The workgroup found convincing evidence supporting the existing legal need for consumer law assistance in studies conducted at both the state and national levels. The workgroup also looked at statistics received from county-based volunteer legal services providers and the statewide Moderate Means Program, which demonstrated a consistent legal need in the consumer law area among low and moderate income people.

Statistics from State and Federal Studies

- The 2003 (Statewide 0-400% of Federal Poverty Level) and 2015 (Statewide, 0-200% of Federal Poverty Level) Civil Legal Needs Studies identified Consumer, Financial Services, and Credit among the three most prevalent problems that people experience and seek legal help to address. There was an increase in legal need in this area from 27% to 37.6% between 2003 and 2014.
- The Legal Services Corporation June 2017 Report: The Justice Gap (National, 0-125% of Federal Poverty Level) identified consumer issues as the second highest problem area for people at this income level.

Moderate Means Program Data

- The WSBA Moderate Means Program (Statewide, 200-400% of Federal Poverty Level) identified consumer issues as the second highest problem area. In addition, data provided by the program showed that consumer law represented 10% of the 2,321 requests for service from October 26, 2016 to October 27, 2017. Of the 233 consumer law requests, 74 related to bankruptcy or debtor relief and 71 were in collections, repossession, and garnishment.
- Data from the Moderate Means Program on requests for service from January 1, 2015 through May 1, 2017, show 523 of 3,062 requests for service in consumer law matters, about 17% of the total requests over that 28 month period.

Statistics from Volunteer Legal Service Providers

- The King County Bar Association's Neighborhood Legal Clinics 2016 data showed that 15% (1,298 of 8,259) of legal issues addressed at the clinic were consumer law related.
- From 2012-2017 the King County based Northwest Consumer Law Center received 2,499 requests for service, all directly related to consumer law needs.
- Over the last three years, the Tacoma-Pierce County Bar Association Volunteer Legal Services had an average of 160 clients per year visit their Bankruptcy Clinic and an average of about 43 clients per year attend the Foreclosure – Home Justice Clinic.

How LLLTs Can Meet the Legal Need

When reviewing the Civil Legal Needs Studies, the workgroup noted that it was unclear whether or not legal assistance would materially address the consumer law problems the subjects were reporting, and if so, whether that assistance could be provided through some method other than direct representation exclusively by a lawyer.

The workgroup discussed many examples of consumer legal problems that may not have a legal remedy, such as a debt collection lawsuit where the money is owed. While discussing each example, the workgroup saw advantages to providing the consumer with legal advice, even if there did not appear to be a legal resolution to the issue. For example, in a debt collection lawsuit, the statute of limitations on collection of the debt may have passed, so the debtor may not be obligated to pay even though the debt is owed. For those debtors who do have defenses or where collection agencies are attempting to collect a legitimate debt in an unfair or illegal manner, a LLLT could be a valuable consumer protection tool. Even for consumers who have no defense to a lawfully pursued debt collection lawsuit, having the assistance of a LLLT throughout the process of responding to a lawsuit would speed judicial efficiency, as the defendant would understand the procedures and be able to respond in an appropriate and strategic way.

The extensive collection of self-help resources offered on washingtonlawhelp.org regarding consumer debt confirms that many consumers already face this issue pro se, and would undoubtedly benefit from consulting with an affordable provider of legal services in this area.

The workgroup enlisted the advice of practitioners and other experts in the various areas of law to identify the legal work which could be effectively performed by LLLTs and provide an economically sustainable practice area. The workgroup identified that Consumer, Money and Debt Law LLLTs should be able to:

- offer advice regarding all identified topics
- fill out certain forms
- engage in limited negotiation in regard to particular issues
- attend specific hearings to advise the client and assist in answering procedural questions

- attend depositions
- prepare paperwork for mediation, and
- attend any administrative proceeding related to the practice area.

The workgroup carefully weighed the pros and cons of each of the above actions and determined that allowing this range of actions would greatly increase the quality of service that LLLTs could provide to their clients.

Target Clients and Scope

The target clients of this practice area are moderate and low income people with consumer debt or credit problems, or those to whom a small amount of debt is owed. The workgroup narrowly prescribed the focus of the recommended scope in order to provide a maximum benefit to these clients. The workgroup also identified limitations designed to ensure that LLLTs will provide service to consumers who currently do not have resources in this area.

The 2015 *Civil Legal Needs Study* noted that the average number of legal problems per household has increased from 3.3 in 2003 to 9.3 in 2014. In addition, the legal problems that low-income people experience are interconnected in complex ways. Consumer debt, for example, can be exacerbated by landlord/tenant issues, divorce, identity theft, lack of access to benefits, problems with an employer, lack of exposure to options such as bankruptcy, and domestic violence and other protection orders.

The workgroup thought holistically about this range of issues which often go hand in hand with consumer debt and credit problems and identified a range of actions which could appropriately be performed by a LLLT in the areas of protection orders, bankruptcy education, wage theft, and identity theft. Including these areas as part of the consumer law relief a LLLT will be able to provide will allow LLLTs to proactively help their clients to break the cycle of debt creation.

Proposed Consumer, Money, and Debt Law LLLT Practice Area

Scope	Proposed Permitted Actions & Proposed Limitations
Legal Financial Obligations (LFOs)	Proposed Permitted Actions: Assistance filling out forms (e.g., Motion for Order Waiving or Reducing Interest on LFO, Order to Waive or Reduce Interest on LFO)
Small Claims	Proposed Permitted Actions: Assistance preparing the Notice of Small Claim, Certificate of Service, Response to Small Claim, Small Claims Orders, Small Claims Judgment, and counterclaims Preparation for mediation and trial Obtaining and organizing exhibits

Comment [JP1]: NIP encourages striking the provisions of the proposal that authorizes LLLTs to engage in any activities classified as "Debt Adjusting", debt settlement, credit counseling or the like. NIP feels these services are widely available and asks the Board to consider whether licensing LLLTs to engage in these activities serves any unmet need identified in the Civil Legal Needs Study. NIP asks the Board to consider reporting unfair acts, deceptive practices and consumer statutory violations to consumer protection attorneys and/or legal services agency in addition to regulatory authorities

Comment [JP2]: NIP asks to adopt the proposed permitted action of assistance with waiving legal financial obligations.

Edgar Hall supportive of these activities

Comment [JP3]: NIP asks the Board to consider revising the score of the proposed permitted actions of reducing the level of participation permitted in Small Claims Court cases to not exceed the participation restrictions in place against fully licensed attorneys, as well as a strict prohibition against LLLTs assisting creditors in small claims litigation or engaging in other conduct meeting the definition of "debt collector" under the FDCPA or a "collection agency" under WCAA

Edgar Hall supportive of all proposed activities

Comment [JP4]: State of Washington, Collection Agency Board is concerned with these services and concerned that any LLLT who performs these activities could be required to be licensed as collection agencies or require collection agencies to be licensed by the WSBA. CAB would like to be included as a stakeholder going forward and ask that WSBA conduct additional research (along with extending the comment period)

Student Loans	Proposed Permitted Actions: Negotiation of debt or payment plans Modifications, loan forgiveness and debt relief Discharge
Debt Collection Defense and Assistance	Proposed Permitted Actions: Negotiation of debt Assistance filling out Complaints, Answers and Counterclaims Affirmative Defenses including Statute of Limitations defenses Reporting Fair Debt Collection Act violations, including statute of limitations and state collection agency statute violations Reporting to Regulatory Agencies Proposed Limitations: LLTs can assist only with debts valued at less than the jurisdictional limits set by the District Court (\$100,000)

Comment [JP5]: NIP asks the Board to consider revising activity involving student loan debt by permitting LLTs to assist a debtor with only federal student loan repayment options

Edgar Hall feels this area requires deep level understanding of these accounts/accounting/background in general. He is completely opposed to all activities due to no statute of limitations, the possibility of attorney fees on the other side being racked up, LLTs would need to give advice on federal statutes and federal law, LLTs would need to argue administrative law before ALJs to appeal federal garnishments. Bottom line LLTs could not obtain proper licenses to give out necessary advice to productively assist clients.

Comment [JP6]: Edgar Hall "hesitatingly" says these activities should be allowed with the reservations of: 1) negotiation of debt 2) filling out answers but not counter claims unless they associate with someone licensed in federal court as the claim would be removed and incur additional attorney's fees 3) reporting statutory violations to regulatory agencies. He feels it is hard to consider anyone not familiar with bankruptcy laws being competent to render debt defense. He also feels by allowing LLTs to file counterclaims will lead to additional attorney fees against the debtor.
He says in a perfect world, there would be some kind of mandatory bankruptcy screen, counter claim screen and with either of those being flagged a referral would be given to the client.

Comment [JP7]: NIP feels permitting LLTs to negotiate debts would subject LLTs to regulation as a debt adjuster under the Debt Adjustment Act.

NIP asks the Board to abandon this permitted action.

ATJ Board suggests the proposal should not allow LLTs to represent any corporate entity, partnership or person in connection with the business of debt collection, debt buying or money lending.

Comment [JP8]: State of Washington, Collection Agency Board is concerned with these services and concerned that any LLT who performs these activities could be required to be licensed as collection agencies or require collection agencies to be licensed by the WSBA.
NIP also voiced concerns about LLTs filling out complaints, as this falls squarely within federal regulation as "debt collectors" under the Fair Debt Collection Practices Act and as a debt collection agency under Washington Collections Agency Act.

NIP asks the Board to abandon this permitted action.

Comment [JP9]: NIP asks the Board to adopt the permitted action of preparing answers to debt collection lawsuits as well as assistance in applying for Charity Care when appropriate

Comment [JP10]: CD suggests setting the dollar limitation to \$5,000. Final proposal must contain explicit instructions on calculating the dollar cap that LLTs can assist with.

Garnishment	<p>Proposed Permitted Actions:</p> <p>Negotiation</p> <p>Voluntary Wage Assignments</p> <p>Assistance filling out forms (Application for Writ of Garnishment, Continuing Lien on Earnings, Return of Service, Notice Exemption Claim, Release of Writ of Garnishment, Motion and Cert. for Default Answer to Writ of Garnishment, Application for Judgment, Motion/Order Discharging Garnishee, Satisfaction of Judgment)</p> <p>Exemption Claims, including assistance at court hearings</p> <p>Proposed Limitations:</p> <p>LLTs can assist only with debts valued at less than the jurisdictional limits set by the District Court (usually \$100,000)</p> <p>LLTs may render legal services for debt collection only when there is a direct relationship with the original creditor and may not act as or render legal services for collection agencies or debt buyers as defined under RCW 19.16.</p> <p>No prejudgment attachments</p> <p>No executions on judgments</p>
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Comment [JP11]: NIP asks the Board to abandon all actions related to garnishment except assistance with exemption claims
Edgar Hall supports all permitted actions and would like to add that a referral to a bankruptcy attorney or screen would be useful and should be mandatory

Comment [JP12]: State of Washington, Collection Agency Board is concerned with these services and concerned that any LLT who performs these activities could be required to be licensed as collection agencies or require collection agencies to be licensed by the WSBA.
NIP also voiced concerns about LLTs filling out complaints, as this falls squarely within federal regulation as "debt collectors" under the Fair Debt Collection Practices Act and as a debt collection agency under Washington Collections Agency Act.

Comment [JP13]: NIP asks the Board to abandon the proposed permitted action of representation in court and at depositions

Comment [JP14]: CD suggests setting the dollar limitation to \$5,000. Final proposal must contain explicit instructions on calculating the dollar cap that LLTs can assist with.

Identity Theft	Proposed Permitted Actions: Advise regarding identity theft Best practices for protecting information Contacting credit bureaus Reporting to law enforcement and other agencies such as Federal Trade Commission
Wage complaints and Defenses	Proposed Permitted Actions: Representation in negotiations or hearings with Labor and Industries Accompany and assist in court Advice and reporting regarding Minimum Wage Act Advice and reporting regarding Fair Labor Standards Act Actions permitted under RCW 49.48 (Wages-Payment-Collection) Actions permitted under RCW 49.52 (Wages-Deductions-Contributions-Rebates) Proposed Limitations: LLLTs may not represent clients in wage claims which exceed the jurisdictional limit set by the District Court (\$100,000)

Comment [JP15]: NJP asks the Board to adopt the proposed permitted action of providing advice regarding identity theft, including assistance with filling out police reports and necessary forms from government entities or private creditors and educating consumers on identity theft issues, best practices and provide resources.

Edgar Hall supports as drafted.

Comment [JP16]: NJP asks the Board to adopt the proposed permitted actions of assisting consumers with wage complaints to L&I, assistance with negotiation and administrative hearings in wage complaint cases, advice and reporting under the MWA and FLSA and referral to a private attorney or legal services of claims and statutory rights enforcement that requires civil litigation.

Edgar Hall shares same reiterates same concerns shared with debt collection defense and assistance permitted actions ("hesitatingly" says these activities should be allowed with the reservations of: 1) negotiation of debt 2) filling out answers but not counter claims unless they associate with someone licensed in federal court as the claim would be removed and incur additional attorney's fees 3) reporting statutory violations to regulatory agencies. He feels it is hard to consider anyone not familiar with bankruptcy laws being competent to render debt defense. He also feels by allowing LLLTs to file counterclaims will lead to additional attorney fees against the debtor.

He says in a perfect world, there would be some kind of mandatory bankruptcy screen, counter claim screen and with either of those being flagged a referral would be given to the client.)

He feels with state and federal laws to consider and LLLTs only being able to handle half the book is problematic at best. Feels this would open employee up to large counterclaims that will mandate their bankruptcy if they fail.

Comment [JP17]: NJP asks the Board to abandon representation in court as a permitted action.

Edgar Hall has concerns regarding malpractice in the loan modification area. Suggests requiring a higher policy minimum in this area to practice. Has strong opposition to foreclosure defense. Has seen firsthand what harm inexperienced attorneys have done in this area and cannot imagine the harm a LLLT could do. Feels there has to be a base knowledge of litigation, possibility of class actions, understanding of mortgage accounting works and loan processing. Has additional concerns because banks are represented by experienced national/multinational firms. Bottom line, he supports loan modification assistance but does not support foreclosure defense other than through the foreclosure modification program.

Loan Modification & Foreclosure Defense and Assistance	<p>Proposed Permitted Actions: Accompany and advise in mandatory mediation process Assist with non-judicial foreclosure actions and defenses under RCW 61.24.040 Advise regarding power of sale clauses and the Notice of Sale Right of Redemption</p> <p>Proposed Limitations: LLLTs would be prohibited from assisting with non-judicial foreclosures if the LLLT does not meet the requirements of RCW 61.24.010. No judicial foreclosures</p>
Protection Orders	<p>Proposed Actions: Selecting and completing pleadings for Protection Orders for domestic violence, stalking, sexual assault, extreme risk, adult protection, harassment, and no contact orders in criminal cases</p>
Bankruptcy Awareness and Advice	<p>Proposed Actions: Explain the options, alternatives, and procedures as well as advantages and disadvantages Refer to budget & counseling agency Refer to bankruptcy attorney</p> <p>Proposed Limitation: No assistance with bankruptcy filing in court</p>

Additions

Comment [JP18]: NJP asks the Board to abandon all actions related to loan modification and foreclosure defense and assistance

Comment [JP19]: Edgar Hall supports this as written

Comment [JP20]: CD suggests the removal of this area from any final proposed expansion.

Comment [JP21]: NJP asks the Board to consider revising the scope of permitted actions of providing bankruptcy advice in a manner that conforms with and does not overlap with 11 US Code 111 and fulfills an identified legal need or supplements a need not already met by "credit counselors"

Edgar Hall supports as written.

Comment [JP22]: Additional Suggestions from CD:
 A means test for potential clients, 200% is the suggested amount. LLLTs would only be authorized to assist people not business entities and should only represent debtors.
 Review RPCs to consider changes that would allow attorneys more flexibility to address needs through relaxation of the rules on unbundling legal services and/or advertising.

Comment [JP23]: Edgar Hall feels one way to help with the debt issues is to require more precision of process servers.
 He also feels garnishment laws need to be more protective, and feels we need less than 25% of wages to be garnished.
 Also feels more should be required in initial complaint than vague statements.

Comment [JP24]: NJP proposes permitted actions of:
 a) Assisting consumers in obtaining relief in form based procedures in addition to applying for LFO interest waivers such as: waiver of LFO; exemption claims in garnishment; relicensing programs; expungement or sealing or criminal records; restoration of civil rights (voting); GR 34 waiver of Court fees; other appropriate form based on non-adversarial proceedings
 b) Assisting and advising consumers with pre-unlawful detainer landlord tenant disputes, such as documenting the condition of the property, habitability rights, applications for subsidized housing, education and resources

The LLLT Board will coordinate with the Washington law schools in the development of the practice area curriculum and ensure that appropriate faculty is available to teach the curriculum. The LLLT Board may modify the proposed practice area based on:

1. consideration of public comments;
2. issues discovered during the drafting of new practice area regulations; and
3. issues that arise during the law schools' development of the practice area curriculum.

Please provide comments to the LLLT Board via email to LLL@wsba.org by July 16, 2018.

Draft for Discussion and Comment:

Consumer, Money, and Debt Law
Proposed New Practice Area for Limited License Legal Technicians

Summary

The Limited License Legal Technician (LLLT) Board invites comment on a proposed new practice area: Consumer, Money, and Debt Law. This new practice area is designed to provide economic protection for the public and to provide legal assistance for certain financial matters, with a focus on consumer debt issues and other problems which contribute to consumer credit problems. For example, LLLTs licensed in this practice area would be able to assist clients with issues related to legal financial obligations, debt collection and garnishment defense, identity theft, preparing for small claims court, and filing protection orders.

Introduction

The practice area was developed by a New Practice Area Committee of the LLLT Board in a workgroup chaired by LLLT Board member Nancy Ivarinen. The workgroup is requesting input from other interested parties prior to formalizing the request to the Supreme Court.

While researching new practice areas for LLLTs, the workgroup considered:

- whether the new practice area would increase access to justice for potential clients with moderate or low incomes;
- whether there is a demonstrable unmet legal need in that area;
- whether it's possible to include consumer/client protection for those who use LLLTs;
- whether the new area would provide a viable practice so LLLTs can afford to maintain a business;
- whether the substantive practice area classes can be developed and taught by the law schools in a three-class series, one per quarter, for five credits each; and
- whether there are experts available to help develop the curriculum and teach the classes.

In order to appropriately vet the potential new practice areas, the workgroup considered:

- statistics and reports discussing the legal need;
- comments by invited subject matter experts who explained what the practice areas entail;
- comments by these experts on what the LLLT could potentially do;
- committee discussion about the LLLT being properly trained in a limited scope within the practice area; and
- whether the practice area could be regulated appropriately so that the needs of the clients would be met, while also assuring that the clients would be protected.

The Better Business Bureau (BBB), the Attorney General's Consumer Protection Division, the Federal Trade Commission, and some organizations funded by United Way offer services related to consumer debt, such as debt management, debt renegotiation; and changing the behavior of businesses that prey upon low and moderate income consumers.

These services have been in existence for decades, and yet the demonstrated need in the Civil Legal Needs Study clearly shows that consumers with debt related legal issues are unaware of these services, do not believe these organizations can or will help them, have not been helped when using these services, or have needs that exceed the scope of the services these organizations can provide.

The proposed practice area is intended to help meet these significant unmet legal needs while giving LLLTs additional practice area options for expanding their businesses.

Evidence of Unmet Need

The starting point of the workgroup's analysis was identifying the unmet need that could be addressed by LLLTs licensed in a consumer law practice area. The workgroup found convincing evidence supporting the existing legal need for consumer law assistance in studies conducted at both the state and national levels. The workgroup also looked at statistics received from county-based volunteer legal services providers and the statewide Moderate Means Program, which demonstrated a consistent legal need in the consumer law area among low and moderate income people.

Statistics from State and Federal Studies

- The 2003 (Statewide 0-400% of Federal Poverty Level) and 2015 (Statewide, 0-200% of Federal Poverty Level) Civil Legal Needs Studies identified Consumer, Financial Services, and Credit among the three most prevalent problems that people experience and seek legal help to address. There was an increase in legal need in this area from 27% to 37.6% between 2003 and 2014.
- The Legal Services Corporation June 2017 Report: The Justice Gap (National, 0-125% of Federal Poverty Level) identified consumer issues as the second highest problem area for people at this income level.

Moderate Means Program Data

- The WSBA Moderate Means Program (Statewide, 200-400% of Federal Poverty Level) identified consumer issues as the second highest problem area. In addition, data provided by the program showed that consumer law represented 10% of the 2,321 requests for service from October 26, 2016 to October 27, 2017. Of the 233 consumer law requests, 74 related to bankruptcy or debtor relief and 71 were in collections, repossession, and garnishment.
- Data from the Moderate Means Program on requests for service from January 1, 2015 through May 1, 2017, show 523 of 3,062 requests for service in consumer law matters, about 17% of the total requests over that 28 month period.

Statistics from Volunteer Legal Service Providers

- The King County Bar Association's Neighborhood Legal Clinics 2016 data showed that 15% (1,298 of 8,259) of legal issues addressed at the clinic were consumer law related.
- From 2012-2017 the King County based Northwest Consumer Law Center received 2,499 requests for service, all directly related to consumer law needs.
- Over the last three years, the Tacoma-Pierce County Bar Association Volunteer Legal Services had an average of 160 clients per year visit their Bankruptcy Clinic and an average of about 43 clients per year attend the Foreclosure – Home Justice Clinic.

How LLLTs Can Meet the Legal Need

When reviewing the Civil Legal Needs Studies, the workgroup noted that it was unclear whether or not legal assistance would materially address the consumer law problems the subjects were reporting, and if so, whether that assistance could be provided through some method other than direct representation exclusively by a lawyer.

The workgroup discussed many examples of consumer legal problems that may not have a legal remedy, such as a debt collection lawsuit where the money is owed. While discussing each example, the workgroup saw advantages to providing the consumer with legal advice, even if there did not appear to be a legal resolution to the issue. For example, in a debt collection lawsuit, the statute of limitations on collection of the debt may have passed, so the debtor may not be obligated to pay even though the debt is owed. For those debtors who do have defenses or where collection agencies are attempting to collect a legitimate debt in an unfair or illegal manner, a LLLT could be a valuable consumer protection tool. Even for consumers who have no defense to a lawfully pursued debt collection lawsuit, having the assistance of a LLLT throughout the process of responding to a lawsuit would speed judicial efficiency, as the defendant would understand the procedures and be able to respond in an appropriate and strategic way.

The extensive collection of self-help resources offered on washingtonlawhelp.org regarding consumer debt confirms that many consumers already face this issue pro se, and would undoubtedly benefit from consulting with an affordable provider of legal services in this area.

The workgroup enlisted the advice of practitioners and other experts in the various areas of law to identify the legal work which could be effectively performed by LLLTs and provide an economically sustainable practice area. The workgroup identified that Consumer, Money and Debt Law LLLTs should be able to:

- offer advice regarding all identified topics
- fill out certain forms
- engage in limited negotiation in regard to particular issues
- attend specific hearings to advise the client and assist in answering procedural questions

- attend depositions
- prepare paperwork for mediation, and
- attend any administrative proceeding related to the practice area.

The workgroup carefully weighed the pros and cons of each of the above actions and determined that allowing this range of actions would greatly increase the quality of service that LLLTs could provide to their clients.

Target Clients and Scope

The target clients of this practice area are moderate and low income people with consumer debt or credit problems, or those to whom a small amount of debt is owed. The workgroup narrowly prescribed the focus of the recommended scope in order to provide a maximum benefit to these clients. The workgroup also identified limitations designed to ensure that LLLTs will provide service to consumers who currently do not have resources in this area.

The *2015 Civil Legal Needs Study* noted that the average number of legal problems per household has increased from 3.3 in 2003 to 9.3 in 2014. In addition, the legal problems that low-income people experience are interconnected in complex ways. Consumer debt, for example, can be exacerbated by landlord/tenant issues, divorce, identity theft, lack of access to benefits, problems with an employer, lack of exposure to options such as bankruptcy, and domestic violence and other protection orders.

The workgroup thought holistically about this range of issues which often go hand in hand with consumer debt and credit problems and identified a range of actions which could appropriately be performed by a LLLT in the areas of protection orders, bankruptcy education, wage theft, and identity theft. Including these areas as part of the consumer law relief a LLLT will be able to provide will allow LLLTs to proactively help their clients to break the cycle of debt creation.

Proposed Consumer, Money, and Debt Law LLLT Practice Area

Scope	Proposed Permitted Actions & Proposed Limitations
Legal Financial Obligations (LFOs)	<i>Proposed Permitted Actions:</i> Assistance filling out forms (e.g., Motion for Order Waiving or Reducing Interest on LFO, Order to Waive or Reduce Interest on LFO)
Small Claims	<i>Proposed Permitted Actions:</i> Assistance preparing the Notice of Small Claim, Certificate of Service, Response to Small Claim, Small Claims Orders, Small Claims Judgment, and counterclaims Preparation for mediation and trial Obtaining and organizing exhibits

Student Loans	<p>Proposed Permitted Actions:</p> <p>Negotiation of debt or payment plans</p> <p>Modifications, loan forgiveness and debt relief</p> <p>Discharge</p>
Debt Collection Defense and Assistance	<p>Proposed Permitted Actions:</p> <p>Negotiation of debt</p> <p>Assistance filling out Complaints, Answers and Counterclaims</p> <p>Affirmative Defenses including Statute of Limitations defenses</p> <p>Reporting Fair Debt Collection Act violations, including statute of limitations and state collection agency statute violations</p> <p>Reporting to Regulatory Agencies</p> <p>Proposed Limitations:</p> <p>LLTs can assist only with debts valued at less than the jurisdictional limits set by the District Court (\$100,000)</p>
Garnishment	<p>Proposed Permitted Actions:</p> <p>Negotiation</p> <p>Voluntary Wage Assignments</p> <p>Assistance filling out forms (Application for Writ of Garnishment, Continuing Lien on Earnings, Return of Service, Notice Exemption Claim, Release of Writ of Garnishment, Motion and Cert. for Default Answer to Writ of Garnishment, Application for Judgment, Motion/Order Discharging Garnishee, Satisfaction of Judgment)</p> <p>Exemption Claims, including assistance at court hearings</p> <p>Proposed Limitations:</p> <p>LLTs can assist only with debts valued at less than the jurisdictional limits set by the District Court (usually \$100,000)</p> <p>LLTs may render legal services for debt collection only when there is a direct relationship with the original creditor and may not act as or render legal services for collection agencies or debt buyers as defined under RCW 19.16.</p> <p>No prejudgment attachments</p> <p>No executions on judgments</p>

Identity Theft	<p>Proposed Permitted Actions:</p> <p>Advise regarding identity theft</p> <p>Best practices for protecting information</p> <p>Contacting credit bureaus</p> <p>Reporting to law enforcement and other agencies such as Federal Trade Commission</p>
Wage complaints and Defenses	<p>Proposed Permitted Actions:</p> <p>Representation in negotiations or hearings with Labor and Industries</p> <p>Accompany and assist in court</p> <p>Advice and reporting regarding Minimum Wage Act</p> <p>Advice and reporting regarding Fair Labor Standards Act</p> <p>Actions permitted under RCW 49.48 (Wages-Payment-Collection)</p> <p>Actions permitted under RCW 49.52 (Wages-Deductions-Contributions-Rebates)</p> <p>Proposed Limitations:</p> <p>LLTs may not represent clients in wage claims which exceed the jurisdictional limit set by the District Court (\$100,000)</p>
Loan Modification & Foreclosure Defense and Assistance	<p>Proposed Permitted Actions:</p> <p>Accompany and advise in mandatory mediation process</p> <p>Assist with non-judicial foreclosure actions and defenses under RCW 61.24.040</p> <p>Advise regarding power of sale clauses and the Notice of Sale Right of Redemption</p> <p>Proposed Limitations:</p> <p>LLTs would be prohibited from assisting with non-judicial foreclosures if the LLT does not meet the requirements of RCW 61.24.010.</p> <p>No judicial foreclosures</p>
Protection Orders	<p>Proposed Actions:</p> <p>Selecting and completing pleadings for Protection Orders for domestic violence, stalking, sexual assault, extreme risk, adult protection, harassment, and no contact orders in criminal cases</p>
Bankruptcy Awareness and Advice	<p>Proposed Actions:</p> <p>Explain the options, alternatives, and procedures as well as advantages and disadvantages</p> <p>Refer to budget & counseling agency</p> <p>Refer to bankruptcy attorney</p> <p>Proposed Limitation:</p> <p>No assistance with bankruptcy filing in court</p>

The LLLT Board will coordinate with the Washington law schools in the development of the practice area curriculum and ensure that appropriate faculty is available to teach the curriculum. The LLLT Board may modify the proposed practice area based on:

1. consideration of public comments;
2. issues discovered during the drafting of new practice area regulations; and
3. issues that arise during the law schools' development of the practice area curriculum.

Please provide comments to the LLLT Board via email to LLL@wsba.org by July 16, 2018.

Consumer, Money, and Debt FAQ

What do Limited License Legal Technicians (LLLTs) do?

Like lawyers, LLLTs can provide clients with legal advice and complete court documents, but their scope of practice is limited. Think of them as being similar to a nurse practitioner who can treat patients and prescribe medication independently but do not do everything a doctor can. LLLTs currently practice in family law only.

Why was the LLLT license created?

The Washington Supreme Court approved the LLLT license in 2012 in response to a Civil Legal Needs Study showing the overwhelming amount of legal needs of the consuming public are currently not being met. WSBA operates under the delegated authority of the Court to oversee the license and develop new practice areas.

What type of education and training do LLLTs have?

[LLLTs receive extensive education and training](#), including:

- An associate's degree or higher;
- 45 credits at an ABA or LLLT Board-approved school;
- Three quarters of practice area education (currently being taught at the [University of Washington School of Law](#));
- Three examinations (Paralegal Core Competency Exam, practice area and professional responsibility exams); and
- At least 3,000 hours of substantive law-related work experience as a paralegal or legal assistant supervised by a lawyer.

How much do LLLTs charge?

The Bar does not ask, suggest, or control how much licensed legal professionals (LLLTs, lawyers, and LPOs) charge for their services. Anecdotally, LLLTs charge between a quarter to one-third of what lawyers charge.

Why is the LLLT Board pursuing Consumer Law as the potential new practice area for LLLTs?

The Court has determined that unmet legal need is one of the primary thresholds for developing new practice areas for the LLLT license. The new practice area workgroup reviewed statistics from county-based volunteer legal-services providers and the statewide Moderate Means Program as well as studies such as the [Civil Legal Needs Study](#), and found significant unmet legal need in the consumer-law area among low- and moderate-income people. The [2003](#) (Statewide 0-400% of Federal Poverty Level) and [2015](#) (Statewide, 0-200% of Federal Poverty Level) Civil Legal Needs Studies identified Consumer, Financial Services, and Credit among the three most prevalent problems that people experience and seek legal help to address. There was an increase in legal need in this area from 27% to 37.6% between 2003 and 2014. [The Legal Services Corporation June 2017 Report: The Justice Gap](#) (National, 0-125% of Federal Poverty Level) identified consumer issues as the second highest problem area for people at this income level.

What happens next?

The LLLT Board is in the process of carefully reviewing all comments and input received so far. The LLLT Board has also extended invitations to people who have provided substantive comments to attend future committee meetings and participate in the development process. LLLT Board members may modify the proposed practice area based on the comments, issues discovered during the drafting of regulations, and issues that arise during the law schools' development of the curriculum.